

State Vs Jaswinder Kaur @ Bhinder Kaur

FIR No.050 Dated 07.03.2023

U/s 384, 506 IPC

P.S. Samrala.

Present: Sh. Sandeep Kumar, Learned APP for the State.
Sh. S.S.Sekhon, Advocate counsel for applicant/accused
Jaswinder Kaur @ Bhinder Kaur.
Sh. Salin Gupta, Advocate, counsel for the complainant.

1. This is the first bail application moved by accused/applicant Jaswinder Kaur @ Bhinder Kaur through counsel under Section 437 Cr.P.C.

2. It is stated in the bail application that the accused/applicant has been implicated falsely and has not committed any offence. She was arrested on 08.03.2023 and produced in the Court on 09.03.2023 and sent in judicial custody on 09.03.2023.

3. It is further stated that the accused is an old age lady having the age of 65 years and also suffering from health problems like blood pressure and the applicant has to take medicines regularly and even visit doctor for regular checkup for the sake of good health. Further the applicant/accused undertakes that she will not tamper the evidence in any manner or she will not induce the witnesses in the case in any manner. That the applicant is a peace loving and law abiding citizen of India. That the trial will take sufficient long time and till then no fruitful purpose will be served by keeping the applicant behind the bars as the applicant/accused has not committed any offence. That the

applicant/accused also undertakes that she will attend the Court on each and every date of hearing. That she will abide by all the terms and conditions laid down by the Court and not leave India without prior permission of the Court. It is prayed that the accused be granted bail.

4. The accused is stated to be in judicial custody since 09.03.2023. Report of Ahlmad of this Court has been received as per which there is no case pending or decided in the present FIR by any Court of law. Also the report of the APP for the State has been recorded wherein he has stated that this is the first bail application and there is no bail application pending for decision by any Court of law.

5. The learned counsel for the applicant/accused argued that there is no material on record to show that the involvement of accused in the present FIR. The accused is mother of co-accused Ramandeep Kaur. He categorically pinpointed towards the averments in the FIR and argued that no involvement of applicant/accused can be seen. That the applicant/accused has been falsely implicated. There exists no direct dealing between the accused and the complainant as is evident from the averments in the FIR. He further stated that it is alleged that Whats-App messages were sent from unknown mobile numbers to the wife of the complainant however, no such message has been sent by the applicant/accused. The applicant/accused is an age old lady. No purpose would be served by keeping the applicant/accused behind the bars. The

applicant is ready to furnish sound surety. She is ready to abide by all the conditions imposed by the Court.

6. Learned APP for the State assisted by the learned counsel for the complainant has opposed the bail application. It has been argued, inter alia, that the allegations against the applicant/accused are serious in nature. The accused has been named in the FIR. The material on record is sufficient to prima facie show that the accused/applicant was also involved in blackmailing the complainant and his wife. He submitted that messages were sent through Whats-App and also Whats-App calls were done from unknown number on the phone of wife of the complainant to blackmail her. He stated that the wife of the complainant who was already suffering from various ailment was mentally tortured and blackmailed that the accused persons would kill her son. That the applicant/accused should not be released on bail, as the investigation is still pending and there is likelihood that the accused will temper with the evidence of the witness.

7. In reply to the said contentions, the learned counsel for the accused/applicant submitted that the basis of the whole investigation in the present case are the mobile phones which have already been taken into police possession by the police. That the applicant is the first time offender with no criminal antecedents. There is no likelihood that the applicant/accused would tamper with the evidence as the evidence has already been collected with the police. The learned counsel pinpointed towards the enquiry of the DSP Samrala wherein it has been categorically

stated that the complainant Jatinderpal Singh has intentionally and with some ulterior motive stated about giving of money for Scooty to accused Ramandeep Kaur and similarly he has stated so about giving doped lassi to his wife. He again stated that the averments in the FIR clearly signify no involvement of applicant/accused Jaswinder Kaur @ Bhinder Kaur who is mother of Ramandeep Kaur.

8. I have heard the submissions and perused the police record. Perusal of the police record and the FIR reveals that the present FIR has been registered on the statement of complainant Jatinderpal Singh. Jatinderpal Singh was working as shifting In-Charge at toll plaza Ghulal and accused Ramandeep Kaur was also working there. During that time, they befriended each other however, later on their relation got uncordial. The complainant stated that he purchased an old Scooty from Ramandeep Kaur by giving Rs.10,000/- and also gave guarantee for the same and in total gave sum of Rs.28,000/- from the same. He also lend her a gold chain for wearing on a marriage function which Ramandeep Kaur did not return. Ramandeep Kaur also did not return the Scooty money to the complainant. When wife of the complainant came to know regarding the relationship of Ramandeep Kaur with her husband, dispute arose and then Ramandeep Kaur made her mother talk to the wife of the complainant who affirmed that Ramandeep Kaur would not call Jatinderpal Singh any further. Wife of the complainant used to stay unwell about which even Ramandeep Kaur knew. Then Ramandeep Kaur started calling wife of

complainant from unknown numbers through Whats-App app. Ramandeep Kaur demanded a sum of Rs.50,000/- from the complainant which he gave, about which his wife didn't know. That the accused Ramandeep Kaur gave lassi in a bottle to the complainant at the toll Plaza in front of all the co-workers. After having lassi, health of wife of complainant deteriorated and she was rushed to the hospital and she remained unwell for four days. That the complainant alleges that the lassi had a poison. Then Ramandeep Kaur started sending voice mail, Whats-App to wife of the complainant and started giving threatening calls to his wife. The husband of Ramandeep Kaur also verbally abused the wife of the complainant on Whats-App call. That there is a gang of 4-5 girls who call his wife from different numbers in different voices on WhatsApp and blackmail her. That the call detail of his wife from 09.01.2022 to 20.10.2022 be procured. He further stated that he has apprehension that Ramandeep Kaur along with her husband and mother will implicate him in a false case. That if something happens to his wife or his son then the accused persons would be responsible. On the basis of this, the FIR was registered.

9. This Court has considered the submissions from both the sides and perused the file carefully.

10. In the present case, the accused/applicant is mother of Ramandeep Kaur. Reading the averments in the FIR in totality, her name has erupted only once in the statement of Jatinderpal Singh-complainant.

The only role attributed to her is that she talked to wife of the complainant once and thereafter matter was amicably settled between the parties and she assured the wife of the complainant that Ramandeep Kaur would never be in contact with her husband again. The whole narration of the FIR revolves around the fact that Ramandeep Kaur was a ticket collector at the toll Plaza and Jatinderpal Singh-complainant was working as shifting In-charge. In the meantime, they became friends and later on wife of the complainant came to know about the said relationship to which she objected. Then the dispute arose between them and the complainant alleges that Ramandeep Kaur used to blackmail his wife. The learned counsel for the complainant has pinpointed that threatening and intimidating calls were made to wife of the complainant by Ramandeep Kaur from various mobile numbers. However, at this stage it has not been shown on record as to whether any call was made by accused/applicant i.e. mother of Ramandeep Kaur. It has further been argued from the complainant side that if the accused/applicant is released on bail, she would temper with the evidence. In this regard, the police record shows that mobile phones have already been taken into police possession. The evidence in the present case is evidently in the nature of cyber technology and the mobile phones have already been taken into police possession. The complainant has further argued that the accused persons used to call the wife of the complainant through Whats-App and also intimidated her of causing loss to her son. However, it has not been shown through police

record that any threatening call was done by the mother, the voice sample if needed in the investigation, can be collected of the accused/applicant at any stage.

11. The underlying principles while granting bail have been discussed by the Hon'ble Apex Court in number of judgments, few of them are reproduced as under:-

Prahlad Singh Bhati Vs. NCT of Delhi & ORS – (2001) 4 SCC 280 is a case wherein Hon'ble Apex Court proceeded to state the following principles which are to be considered while granting bail: “(a) While granting bail the Court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations. (b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail. (c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the Court in support of the charge. (d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

Similarly in Anil Kumar Yadav vs. State (NCT of Delhi) – (2018) 12 SCC 129 , the Hon’ble Apex Court has spelt out some of the significant considerations which must be placed in the balance in deciding whether to grant bail:-

“17. While granting bail, the relevant considerations are: (i) nature of seriousness of the offence; (ii) character of the evidence and circumstances which are peculiar to the accused; and (iii) likelihood of the accused fleeing from justice; (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and (v) likelihood of his tampering. No doubt, this list is not exhaustive. There are no hardandfast rules regarding grant or refusal of bail, each case has to be considered on its own merits. The matter always calls for judicious exercise of discretion by the Court.”.

Recently the Hon’ble Supreme Court of India in SLP (CRL.) No.6335 of 2021 and SLP (CRL.) No.7916 of 2021 Judgment Dated: 17.12.2021 titled as Brijmani Devi vs Pappu Kumar & Anr. observed as under:-

‘....25. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must

be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction visàvis the offence/s alleged against an accused. ...'

12. Now coming back to the facts of the present case, no involvement of accused/applicant Jaswinder Kaur @ Bhinder Kaur who is mother of Ramandeep Kaur can be ascertained. Even otherwise the enquiry of the DSP, Samrala states that no evidence has come up showing giving of scooty and doped lassi to the wife of the complainant and the said statement has been given by the complainant with some ulterior motive. The version in the FIR states that the dispute arose when the wife of the complainant came to know about his relationship with accused Ramandeep Kaur. The accused is an old lady and is a first time offender with no criminal antecedents. The evidence in the present case has already been collected by the police i.e. the mobile phones from which the alleged Whats-App calls have been made. Hence, in such circumstances accused applicant/accused Jaswinder Kaur @ Bhinder Kaur is admitted to bail on her furnishing bail bonds and surety bonds of Rs.70,000/- with one surety in the like amount. Bail bonds and surety bonds of accused/applicant furnished which are accepted and attested. Release orders be issued forthwith. Ahlmad is directed to attach the bail application with remand papers/challan/FIR.

Pronounced in open Court on
15th March, 2023

(Harmanjit Singh, Steno-II)

(Megha Dhaliwal) PCS
Sub Divisional Judicial Magistrate
Samrala. (UID No. PB 0357)

(Megha Dhaliwal) PCS,
Sub-Divisional Judicial Magistrate,
Samrala(UID No. PB 0357).