

In the court of Ms. Amandeep Kaur,
Additional Sessions Judge,
Patiala.(PB0207)

BA No.1753-2021
CNR No.PBPT01005434-2021
Date of Decision:31.05.2021

Amandeep Singh and others vs. State of Punjab

FIR No.268 dated 26.09.2020
Under Section 379 IPC
P.S.Sadar Samana, Patiala

First Application under section 438 of Cr.P.C for grant of anticipatory bail.

Present:Sh.Sumesh Jain Advocate counsel for the bail applicants
Sh.Charanjit Singh, Additional Public Prosecutor for the State.

ORDER

1. This order of mine shall dispose off the bail application under section 438 of Cr.P.C. filed by applicants/accused in case FIR No.268 dated 26.09.2020, Under Section 379 IPC,P.S.Sadar Samana, Patiala
2. As per the prosecution version, a written application dated 08.09.2020 was moved by Harvinder Kaur against the bail applicants and others to the effect that on 12.05.2020, they and their accomplices reached the Mandi armed with weapons and took away the wheat crop, harvested from the land measuring 12 killas without the consent of the commission agents M/s Darshan Kumar and Company. On the basis of inquiry conducted on above said complaint dated 08.09.2020 present FIR under section 379 IPC was registered on 26.09.2020 against the bail applicants and others.

3. Learned counsel for the bail applicants pressed this bail application on the ground that police officials of P.S.Sadar, Samana visited the house of bail applicants in their absence and threatened their family members that they will be arrested in above noted case in non bailable offence. Hence, there is apprehension of their arrest. The bail applicants have been involved in this false and frivolous case. He further argued that case as they are the family member of accused Sarabjeet Kaur, Gurpreet Kaur and Charanjeet Kaur and complainant is inimical towards them. He further argued that the complainant has forged a Will to claim the land of Hari Singh father of accused Sarabjeet Kaur, Gurpreet Kaur and Charanjeet Kaur and FIR No. 36 of P.S.Samana was registered against the complainant. Furthermore in the present case, vide order of Divisional Commissioner, Patiala, the mutation of inheritance of deceased Hari Singh was ordered to be sanctioned in the name of accused Sarabjeet Kaur, Gurpreet Kaur and Charanjeet Kaur and the said land was being cultivated by them. Out of said 12 acres of land, 5 acres land are solely owned by accused Sarabjeet Kaur, Gurpreet Kaur and Charanjeet Kaur vide sale deed bearing Wasika No. 3115 dated 31.01.2020. In the present case the FIR was lodged on the basis of hearsay version and the civil dispute is being given coloured version to convert the same into criminal case. There is no version with regard to theft or even there is no version of the applicant that he had played any active participation with regard to the forging of the documents. No prima facie overt act or role has been attributed to the bail applicants. As such, no case against the bail applicants is made out. Nothing is to be recovered from them. As such, no

custodial interrogation of applicant is required for. A payer is made for allowing the present application.

4. .Notice of the bail application was given to State and the learned Additional Public Prosecutor for the State opposed the bail application on the ground that serious allegations are levelled against the bail applicants and as such, their custodial interrogation is required. He thus, prayed for dismissal of the present bail application.

5. I have heard and perused the police record. Perusal of the police record shows that there is a dispute between complainant Harvinder Kaur on one side and co-accused Sarabjit Kaur, Gurpreet Kaur and Charanjit Kaur on the other side regarding inheritance of property of Hari Singh giving rise to litigation between them including FIR No. 183 dated 17.11.2016 under sections 307, 341, 323, 325, 326, 356, 148, 149 and 120B IPC and 25 and 27 of Arms Act, P.S.Sadar, Samana registered against accused Gurpreet Kaur and others ; FIR No. 45 dated 31.03.2020 under sections 447, 427 and 149 IPC, P.S.Sadar, Samana registered against accused party, and revenue case regarding mutation of property of Hari Singh. The perusal of copy of order dated 28.08.2019 passed by Divisional Commissioner, Patiala Division, Patiala also shows that there is dispute between the parties regarding mutation sanctioned in favour of complainant party on the basis of unregistered Will dated 25.03.2012 which vide order dated 28.08.2019 was set-aside. As per the allegations, present bail applicants along with others had taken harvested crops out of possession of Commission Agent on 12.05.2020. However, no specific role is attributed to the bail applicants and rival parties are

already into litigation on civil and criminal side as they have a dispute regarding inheritance of property of deceased Hari Singh. As such, the custodial interrogation of the bail applicants is not required. The bail applicants are ready to join the investigation. The purpose of the custodial interrogation shall be met when the bail applicants join the investigation. As such, the facts of the case do not warrant custodial interrogation of the applicants. They are granted interim bail and is directed to appear before the Investigating Officer and join the investigation and on making doing so, they will be released on furnishing the bail bonds in the sum of Rs.50,000/- each with one surety in the like amount to the satisfaction of the Investigating Officer/Arresting Officer. This bail order is subject to the following conditions:

- I) That the applicants shall join the investigation as and when called by the investigating officer;
- II) That the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;
- III) That the applicants shall not leave the country without prior permission of the court.

6. It is however made clear that the observations made in this order shall have no effect on the merits of the main case. Now, to come come up on 02.07.2021 for awaiting report of Investigating Officer. Police record be returned.

Date of order: 31.05.2021
Rakesh Mittal
stenographer-I

Amandeep Kaur
 ASJ/JSC, Patiala
 UID NO. PB0207