

PBGD010030612020



Presented on : 28-05-2020
Registered on : 28-05-2020
Decided on : 02-06-2020
Duration : 0 years, 0 months, 5 days

**IN THE COURT OF
Additional District and Sessions Judge, Gurdaspur
(Presided Over by Sh. Jatinder Pal Singh Khurmi)**

CIS No. BA-1443-2020

CNR No.PBGD01-003061-2020

Bail Application No. 367 of 28.05.2020

Harpinder Singh aged 39 years son of Lakhwinder Singh resident of
Thikriwal, Goraya, Tehsil Batala, District Gurdaspur.

...Accused/Applicant.

Versus

State of Punjab

.....Respondent.

FIR No. 43 dated 22.05.2020
U/ss 452,447,506,148,149,120-B IPC
Police Station: Qadian.

1st Bail Application U/s 438 Cr.P.C.

Present: Shri H.S. Janjua, Advocate, for applicants-accused.
Sh. Vikram Kashyap, Addl. Public Prosecutor for the State.

ORDER:

The present application filed under Section 438 of Cr.P.C,
is for grant of anticipatory bail to the applicant/accused Harpinder
Singh in a case arising out of FIR No. 43 dated 22.05.2020 U/ss
452,447,506,148,149,120-B IPC, registered at Police Station: Qadian.

2. Notice of bail application was issued and record perused.
3. At the outset, it may be stated that accused was granted

interim bail by this court vide order dated 28.05.2020 and was directed to join the police investigation.

4. Instant FIR has been registered at the instance of complainant Sarwan Singh son of Shiv Singh resident of Dalla that he is resident of above-said address and is serving in Electricity Department. His father has two brother and three sisters. His grandfather was owing 15 Killas of land at village Dalla. After demise of his grandfather, all the land was equally distributed in six parts. Out of this land, 2 Kanals were situated at Firni of village Dalla and this land was equally shared between Shiv Singh, Bakhsis Singh, Dalip Singh, Salwinder Kaur, Jeeto and Preeto.

5. It is further averred in the FIR that father of complainant namely Shiv Singh purchased land measuring 13 marlas out of 1 Kanal 6 marlas situated in Khasra No. 167/2 from his brother Bakhsis Singh in the year 1995 and mutation number 1836 was entered. Thereafter, complainant and his brother Jaswinder Singh had also purchased land measuring 8 marlas out of 14 marlas situated in Khasra No. 168 on 20.12.2000 and mutation number 1654 was entered.

6. It is further averred that brother of complainant namely Jaswinder Singh had purchased land measuring 2 marlas out of 14 marlas situated in Khasra No. 168 from his Bhua Jeeto daughter of Jeewan Singh on 01.06.2006 and mutation number 24199 was entered and in the above-said land, share of his father is 6.66 marlas. Then, on 01.01.2003 complainant and his brother purchased land measuring 10

marlas from his father in the above-said land and mutation number 2125 was entered. Now complainant and his brother owns 32 marlas land and Avtar Singh son of Daleep Singh owns 8 marlas land. In some of the land shops have been constructed and some land is used for agricultural purposes.

7. It is averred that Avtar Singh is claiming rights over the land of complainant. In this regard a panchayat was also convened and respectables assured him that if according to revenue record, there is some other land in his share they will get is partitioned. According to Jamabandi of year 2017-18, Harjit Singh son of Karnail Singh, Bikramjit Singh son of Karnail Singh, Gurbhinder Singh son of Mohan Singh, Harpal Singh son of Mohan Singh, Lovepreet Singh son of Hira Singh, Akashdeep Singh son of Gurmeet Singh, Ranjodh Singh, Atma Singh both sons of Lal Singh, Avtar Singh son of Dalip Singh, Satnam Singh son of Daleep Singh, Bhupinder Singh son of Avtar Singh, Sarabjit Kaur wife of Baljit, Jaspreet kaur wife of Bhupinder Singh, Paramjit Kaur wife of Gurmeet Singh, Harjit Kaur wife of Hira Singh, Ranjit Kaur wife of Harjeet Singh, Sarabjeet Kaur wife of Vikramjeet Singh, Rajwinder Kaur wife of Gurbhinder Singh, Jasbir Kaur wife of Atma Singh, Gurpreet Singh son of Bikram Singh, Darshan Singh son of Bakhsis Singh have no concern with this land and also they are not co-sharers of the said land.

8 It is further averred that despite having no concern with the said land, on 12.05.2020, when complainant was raising walls around

his land, Harjit Singh, Bikramjit Singh, Gurbhinder Singh, Harpal Singh, Lovepreet Singh, Akashdeep Singh, Ranjodh Singh, Atma Singh, Avtar Singh, Satnam Singh, Bhupinder Singh, Sarabjit Kaur, Jaspreet Kaur, Paramjeet Kaur, Harjeet Kaur, Ranjit Kaur, Sarabjeet Kaur, Rajwinder Kaur, Jasbir Kaur, Gurpreet Singh, Darshan Singh and Harinder Singh and some unknown person came there and started abusing them. They threatened them to kill them. Complainant party got scared and ran away from there by leaving their work.

9. Again, on 21.05.2020 at about 08.30 PM, all the above-said persons who were armed with Danda and baseball came to their house and started hurling abuses. They also threatened that they will allow him to go away from the land. The above-said persons also want to take possession of the nearby panchayati land. On the basis of above-said statement, present FIR was registered against the accused persons.

10. Learned counsel appearing on behalf of the applicant submitted through VC that the applicant/accused is innocent and has been falsely implicated in the present case. No such occurrence ever took place, moreover there is a civil dispute between the complainant and application regarding the place of occurrence and the matter is pending before Commissioner Jalandhar, Division Jalandhar and stay regarding the disputed land has already been granted in favour of applicant. Moreover, it is a civil dispute and nothing has been attributed on the applicant. All the offence are bailable in nature except the Section 452 of IPC. Applicant is no more required for purpose of

custodial interrogation. He submitted that the applicant is ready to join the investigation and to co-operate with the investigating agency. With these submissions he prayed for concession of anticipatory bail to the applicant.

11. On the other hand, learned Additional Public Prosecutor for the State has opposed the submissions. He submitted that in the light of the gravity and serious allegations against the accused-applicant, no case is made out to grant the extraordinary relief of anticipatory bail to the applicant. With these submissions, Learned Additional Public Prosecutor for the State, prayed that the instant bail application is devoid of merits and the same be dismissed. However, ASI Surinder Singh has come present today and suffered a statement that in compliance of order dated 28.05.2020 passed by this court in the present bail application, the applicant Harpinder Singh has joined the investigation on 30.05.2020. An affidavit has been filed against him by Harjit Kaur, Lovepreet Singh and Atma Singh of village Dalla Tehsil Batala and District Gurdaspur to the effect that the accused/applicant Harpinder Singh has threatened them with dire consequences in respect to the land of panchayat for taking forcible possession of the same. One case under NDPS Act has also registered against him which is pending in the court. He is required for further investigation in this case by the police of P.S. Qadian.

12. Submissions have been considered.

13. As per allegations, the accused in furtherance of their

common intention forcibly attempted to take possession of nearby panchayati land. Even the accused-applicant and his co-accused have stopped the complainant party from construction. Even civil dispute is alleged between the parties. Applicant party even alleges that matter is pending before Commissioner Jalandhar, Division Jalandhar and stay regarding disputed land has been granted in their favour. The applicant has joined the investigation as directed by this court. Civil dispute is going on. Without commenting on the merits of the case, present bail application stands allowed, subject to making necessary compliance of provision of Section 438 (2) Cr.P.C. Interim order dated 28.05.2020 is hereby made absolute.

14. However, the observations made above will have no bearing on the merits of case.

15. Police record be returned and bail application be consigned to Record-room.

Pronounced in open Court.
02.06.2020.

(Jatinder Pal Singh Khurmi),
Additional Sessions Judge
Gurdaspur (UID No.PB0057)

Priya Phutella, Stenographer III

Dictated on :02.06.2020.
Transcribed on :02.06.2020.
checked on :02.06.2020.
Signed on :02.06.2020.

(Jatinder Pal Singh Khurmi),
Additional Sessions Judge
Gurdaspur (UID No.PB0057)