
(2011) 04 P&H CK 0238

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-10209 of 2011 (O and M)

Cacoon Overseas India Ltd.

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Citation : (2011) 04 P&H CK 0238

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Alok Singh, J.—Present petition is filed seeking cancellation of anticipatory bail granted by learned Additional Sessions Judge 07.03.2011.

2. Complainant-Petitioner (alleged tenant) has filed complaint stating therein that owner of the property / landowner has forged the documents and has taken forcible possession from the tenant saying that tenant has vacated the demised premises and has sold the machinery in favour of the owner of the property. Learned Addl. Sessions Judge while granting bail has held as under:

Original version coming in the FIR is that documents in toto have been forged including the complainant's signatures etc. but now the version at the time of arguments has been put forth that certain documents were already available with accused party that were signed but in blank form and which had been later forged by accused. If that is the case, it is really hard to believe that any literate person should have over letter heads signed in blank as well as blank cheque to his/her landlord as security. The change of version makes difference coupled with the fact that already a civil suit has been filed on the strength and base of these alleged forged documents and as such, question of their genuineness is pending before the Civil Court. The FIR has been lodged later after the filing of Civil Suit. Before that, no complaint was made regarding complainants firm's dispossession from the tenanted premises as was alleged. No custodial interrogation

whatsoever is apparently required nor any document was to be recovered from accused party. In view of facts and circumstances revealed from the material placed on record at this stage, a special case is certainly made out in favour of accused/applicants for the grant of anticipatory bail.

3. Learned Counsel for the Petitioner while placing reliance on judgment of the Apex Court in the matter of Brij Nandan Jaiswal Vs. Munna @ Munna Jaiswal and Another, has argued that it is now a settled law that complainant can always question the order granting bail if the said order is not validly passed. Hon''ble Apex Court in the matter of Brij Nandan Jaiswal (supra) in paragraph No. 7 has observed as under:

7. It is now a settled law that complainant can always question the order granting bail if the said order is not validly passed. It is not as if once a bail is granted by any court, the only way is to get it cancelled on account of its misuse. The bail order can be tested on merits also. In our opinion, therefore, the complainant could question the merits of the order granting bail. However, we find from the order that no reasons were given by the learned Judge while granting the bail and it seems to have been granted almost mechanically without considering the pros and cons of the matter. While granting bail, particularly in serious cases like murder some reasons justifying the grant are necessary.

4. There is no dispute that bail granted can be questioned by the complainant on the ground that bail has not been validly granted keeping in mind the facts and circumstances of the case. In the case of Brij Nandan Jaiswal (supra), Hon''ble Apex Court has made observation in paragraph No. 7 keeping in view that in the matter of Brij Nandan Jaiswal, no reason was assigned by the Court while granting bail; while in the case in hand, learned Addl. Sessions Judge has assigned valid reason for granting anticipatory bail.

5. Not only this, in the latest judgment in the case of Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors. reported in 2011(1) RCR (Cri) 126, the Hon''ble Apex Court has observed that irrational and indiscriminate arrest must be avoided.

6. Undisputedly, a civil suit is pending between the parties. Present case is between the landowner and tenant. The question as to whether tenant - complainant himself has vacated the property and has handed over the possession to the landlord can only be adjudicated by the Civil Court. However, custodial interrogation seems to be unjustified, therefore, in the opinion of this Court, learned Additional Sessions Judge was perfectly well within its jurisdiction while granting anticipatory bail.

7. Petition is devoid of merit, hence, is dismissed.