
(2011) 03 P&H CK 0723
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M-6737 of 2011

Chander Deep Khosla alias, Vijay Khosla and Another	APPELLANT
Vs	
The State of Punjab	RESPONDENT

Date of Decision : 28-03-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 34, 380, 427, 452

Citation : (2011) 03 P&H CK 0723

Hon'ble Judges : S.S. Saron, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.S. Saron, J.—Heard counsel for the parties.

2. The Petitioner seeks pre-arrest bail in case FIR No. 25 registered against him on 07.02.2011 for the offences under Sections 452, 323, 380, 427, 506 and 34 IPC at Police Station Division No. 4, Jalandhar, Tehsil and District Jalandhar.

3. The FIR (Annexure P-1) has been registered on the complaint of Rajesh Kumar. It is alleged by the complainant that on 07.02.2011 at about 5.30 p.m., Khosla (Chander Deep Khosla alias Vijay Khosla Petitioner No. 1), Sunil Kumar (Petitioner No. 2), Joginder Singh (non-Petitioner) and their five/six accomplices came to their house in a car and a motorcycle. They forcibly entered into the house and they abused the parents and sister of the complainant. They took away the LCD of LG Compnay and Home Theatre from his house. Besides, they threatened to kill them and also threatened them to be ready to face the consequences. It was, therefore, requested that the legal action be taken against them and the articles that had been taken be got returned.

4. Om Parkash, Sub Inspector, Police Station, Division No. 4 along with Head Constable, Mubarak Singh and PHG Atma Ram were present in the area of Jyoti Chowk, Jalandhar at that time and were patrolling in that area in private vehicles. Head Munshi, H.C. Ravinder Singh, telephonically informed Om

Parkash, Sub Inspector that at 177 Suraj Ganj, Jalandhar some incident had taken place and he should reach there. On this, Sub Inspector along with other police officials reached Suraj Ganj in the private vehicles where in the house, Rajesh Kumar-complainant and his father Mahant Raj Pal and Madhu were present. Rajesh Kumar-complainant submitted an application and after perusing the same, offences u/s 452, 323, 380, 427, 506 and 34 IPC were found to be made out. The application along with the police proceedings was sent to the Police Station through PHG Atma Ram for registration of a case (FIR). Om Parkash, Sub Inspector accompanied by other officials was busy in investigation at the spot.

5. Learned Counsel appearing for the Petitioners has submitted that no such incident had occurred in the manner as has been alleged in the FIR and the FIR has been registered only due to political reasons. The Petitioners, it is submitted, belong to the Congress Party and they are active members of the Congress Party. On the other hand, the complainant party belongs to the Akali Dal (Badal) and are workers of the Akali Dal (Badal). Therefore, the Petitioners are being pressurized to join the Akali Dal (Badal). Besides, one Joginder Singh is also being pressurized to join Akali Dal (Badal). The Petitioner and Joginder Singh had refused to join the Akali Dal (Badal) due to their political affiliation with the Congress Party. It is submitted that a false and fabricated FIR has therefore, been registered. It is also submitted that there is no motive in the FIR for the Petitioner to go to the house of the complainant and take away the articles, as has been alleged.

6. In response, learned Counsel for the State has shown the photographs of the place of the incident and has submitted that the house of the complainant had been ransacked, besides, articles had been taken away. It is also submitted that Om Parkash, Sub Inspector, SHO Police Station, Division No. 4, Jalandhar had himself gone to the place of the incident and investigated the matter. It is submitted that the incident had indeed occurred and the matter requires to be investigated. The allegations of political considerations, it is submitted, are only to create a defence and there is no truth in the same. Besides, it is submitted that an offence u/s 380 IPC has been attributed to the Petitioners, therefore, it cannot be said that there is no motive. As such, the Petitioners are not entitled to pre-arrest bail.

7. I have given my thoughtful consideration to the matter. The allegations against the Petitioners are that they entered into house of the complainant and took away certain articles; besides abused the parents and sister of the complainant. The contention that the Petitioner belongs to the Congress Party whereas the complainant belongs to the Akali Dal (Badal) Party is to be gone into by the Investigating Authority and it is not to be gone into at this stage. The allegations as made in the FIR disclose the commission of cognizable offences. The police needs the custody of the accused so as to carry out its investigations. The police in the facts and circumstances is indeed liable to conduct its

investigations. It is well-known that considerations governing an application for grant of pre-arrest bail are materially different from that of a post-arrest bail or for that matter, even an application seeking suspension of sentence pending an appeal before the higher Court. In a case of pre-arrest bail, the advantage of custodial interrogation to elicit mere and useful material and information is to be kept in view. The allegations are quite serious in nature. The articles which have been taken away, are to be recovered. Besides, the SHO Om Parkash himself had gone to the place of the incident and enquired into the matter. It is after his prima facie satisfaction that FIR has been registered. In the circumstances, it cannot be, said at this stage that the entire incident is false.

8. For the foregoing reasons, there is no merit in the petition and the same is accordingly dismissed.

9. However, in case, the Petitioners surrender before the police within two days of the receipt of the copy of this order and apply for regular bail, their application or applications for regular bail shall be considered by the concerned Court within two days thereafter, after excluding the period of police remand, if any.