
(2020) 01 P&H CK 0066

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 46342 Of 2019 (O&M)

Kishan Lal

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 14-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 392, 395
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2020) 01 P&H CK 0066

Hon'ble Judges : Gurvinder Singh Gill, J

Bench : Single Bench

Advocate : Ankur Bansal, Saurav Khurana

Final Decision : Allowed

Judgement

1.The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No. 195 dated 31.10.2017 at Police Station Division No. 3, Jalandhar under Section 392 of Penal Code, 1860, wherein offence under Section 395 IPC was added later on.

2. Short reply by way of affidavit of Sh. Gurmit Singh, PPS, Deputy Commissioner of Police (Investigation), Jalandhar has been filed by learned State counsel today in Court, which is taken on record.

3. The FIR was lodged at the instance of Montu Gill, wherein it has been alleged that he is running a 'Fitness and Health Club' in Jalandhar and that on 14.10.2017 he went upto Anil Kumar to collect the amount due from him. While he was talking to aforesaid Anil Kumar, 6-7 persons, out of whom two were wearing turbans, came there. It is alleged that one of them took out a pistol and pointed the same at the complainant, while the remaining were carrying 'kirpans' and 'dadar'. One of the said persons took an amount of Rs. 57,000/- from the pocket of the pants worn by the complainant and thereafter while issuing threats the said persons went towards railway road from the market side. It is further

stated therein that the complainant had been trying to search for the said persons and later came to know their names as Bikramjeet Singh, Sher Singh @ Babbar, Mukal, Kishan, Sunny and Heera. It is further stated therein that he shall produce the CCTV footage wherein they are seem running through the market.

4. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and infact the address of the petitioner, as mentioned in the FIR, is altogether different and he has never resided at the said address meaning thereby that he is not the person as mentioned in the FIR. The learned counsel has further submitted that the story of the prosecution that some CCTV footage had also been collected is infact negated from the fact that the CD stated to be a part of the challan, upon being played before the learned Trial Court, was found to be blank.

5. Opposing the petition, the learned State counsel has submitted that since the petitioner is specifically named in the FIR, no case for grant of bail is made out. The learned State counsel, however, could not furnish any explanation as to why the CD in question could not be played and was found to be blank as has also been reported by the learned Additional Chief Judicial Magistrate in his letter dated 12.12.2019.

6. I have considered rival submissions addressed before this Court.

7. Keeping in view the fact that there is a delay of 17 days in lodging of the FIR and that apparently the petitioner was not identified at the spot and it is only subsequently that the complainant has come out with the name of the complainant and also that the CD in respect of the alleged CCTV footage had been found to be blank, in my opinion, custodial interrogation is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 19.11.2019 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.