

Mohinder Kumar Vs. State of Punjab

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Court : Punjab and Haryana

Decided On : Apr-25-2014

Appellant : Mohinder Kumar

Respondent : State of Punjab

Judgement :

CRM-M No.35939 of 2013 & other case -1- IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH (1) CRM No.M-35939 of 2013 Mohinder Kumar ...Petitioner Versus State of Punjab ..Respondent (2) CRM No.M-37729 of 2013 Naresh Kumar Sodhi ...Petitioner Versus State of Punjab ..Respondent Date of Decision :

25. 04.2014 CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR
Present: Mr. S.S. Behl, Advocate for the petitioner (in CRM-M No.35939 of 2013).
Mr. Vaibhav Narang, Advocate for the petitioner (in CRM-M No.37729 of 2013)
Ms. Amarjit Kaur Khurana, Addl. A.G., Punjab for the State. **** Mehinder Singh Sullar, J.

(Oral) As, identical points for consideration to grant the concession of anticipatory bail or otherwise, to the petitioners are involved, therefore, I propose to decide the above indicated petitions bearing CRM No.M-35939 of 2013, titled as Mohinder Kumar Versus State of Punjab (for brevity the 1st Case.) and CRM No.M-37729 of 2013, titled as Naresh Kumar Sodhi Sumit Kumar 2014.04.26 13:48 I attest to the accuracy and integrity of this document CRM-M No.35939 of 2013 & other case -

2- Versus State of Punjab (for short the 2nd case.), arising out of the same case/FIR, by means of this common order, to avoid the repetition.

2. The petitioners have directed the instant separate petitions for the grant of anticipatory bail, invoking the provisions of Section 438 Cr.P.C., in a case registered against them, vide FIR No.193 dated 24.09.2013, on accusation of having committed the offences punishable under Sections 420, 467, 468, 471 and 120-B IPC, by the police of Police Station Sadar Amritsar, District Amritsar.

3. Notices of the petitions were issued to the State.

4. After hearing the learned counsel for the parties, going through the record with their valuable assistance and after considering the entire matter deeply, to my mind, the present petitions for anticipatory bail deserve to be accepted in this context.

5. Precisely, the prosecution claimed that petitioner-Mohinder Kumar (in 1st case) has managed a Will dated 18.03.2008, whereas, petitioner-Naresh Kumar Sodhi (in 2nd case) was an attesting witness of the Will, purported to have been executed by father of petitioner-Mohinder Kumar, ignoring the claim of his sisters. It is not a matter of dispute that complainant-Indu Bala and her other two sisters, have already filed a civil suit (Annexure P-2) against the petitioner No.1 and other defendants (therein), for a decree of declaration, challenging the validity of the Will. In this manner, as to whether the impugned Will is valid, genuine or otherwise, inter alia, would be a moot point to be decided by the civil Court and by the Criminal Court. The dispute appears to be purely of a civil nature. Sumit Kumar 2014.04.26 13:48 I attest to the accuracy and integrity of this document CRM-M No.35939 of 2013 & other case -3- 6. Not only that, during the course of preliminary hearing, a Coordinate Bench of this Court (Sabina J.), passed the following order on October, 31, 2013 in the 1st case:- Learned counsel for the petitioner has submitted that although, as per the Will in question, petitioner is the beneficiary but he is ready to give up his inheritance on the basis of the Will in question and would seek inheritance by way of natural succession. Notice of motion for 10.1.2014. In the meantime, in the event of arrest, petitioner be admitted to interim bail subject to the satisfaction of the Arresting Officer. He shall

abide by the conditions envisaged under Section 438 (2) of the Code of Criminal Procedure, 1973.

. Sequelly, similar order was passed by the same Bench on November, 13, 2013 in the 2nd case.

7. At the very outset, on the instructions from HC Satwinder Singh, learned State Counsel has acknowledged the relevant factual matrix and submitted that the petitioners have already joined the investigation. They are no longer required for further interrogation, at this stage. The conclusion of trial will naturally take a long time.

8. In the light of aforesaid reasons, taking into consideration the totality of facts and circumstances, emanating from the record, as discussed here-in-above and without commenting further anything on merits, lest it may prejudice the case of either side, during the course of trial of main case, the instant petitions for anticipatory bail are accepted. The interim bail already granted to the petitioners, by way of orders dated October, 31, 2013 and November, 13, 2013 by this Cour, are hereby made absolute, subject to the compliance of the conditions, as contemplated under Section 438(2) Cr.P.C. Sumit Kumar 2014.04.26 13:48 I attest to the accuracy and integrity of this document CRM-M No.35939 of 2013 & other case -4- Needless to mention that, nothing observed here-in-above, would reflect, in any manner, on merits of the case, as the same has been so recorded for a limited purpose of deciding the present petitions for anticipatory bail. At the same time, in case, the petitioners do not cooperate or join the investigation, the prosecution would be at liberty to move a petition for cancellation of their bail, in this respect. 25.04.2014 (Mehinder Singh Sullar) sumit.k Judge Sumit Kumar 2014.04.26 13:48 I attest to the accuracy and integrity of this document

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