

(1990) 08 P&H CK 0084

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 11188 of 1989

Bhajan Lal and ors.

APPELLANT

Vs

State of Haryana and ors.

RESPONDENT

Date of Decision: Aug. 1, 1990

Citation: (1991) 1 AICLR 411 : (1990) 2 RCR(Criminal) 515

Hon'ble Judges: A.P.Chowdhri, J

Advocate: S. C. Mohunta, R.K. Handa, H. L. Sibal, Advocates for appearing Parties

Judgement

A.P. Chowdhri, J.

1. This is a petition for the grant of blanket anticipatory bail to the petitioners regarding any case which may be registered against them and in the alternative for a direction to the respondents to serve at least 7 days" notice before causing the arrest of the petitioners in any such case in future.

2. Petitioner No I is former Chief Minister of the State of Haryana. He also remanded a Minister in the Union Cabinet. Petitioners Nos. 2 and 3 are his sons and are stated to be politically active. Respondent No. 2 was Chief Minister of the State at the time of filing the petition. Respondent No. 3 is DIG Police, Hissar Range. According to the petitioners, petitioner No. 1 and Shri Devi Lal, who is at present Deputy Prime Minister of India hail from the same area in the State of Haryana. They are old political adversaries and have been fighting elections. They have both been Chief Minister of the State of Haryana at one time or the other. Shri Om Parkash Chautala, respondent No.2, became Chief Minister of Haryana at a later stage. on an earlier occasion, a case under sections 161/165, Indian PenalCode, and section 5 of the Prevention of Corruption Act was registered against petitioner No. 1. It was FIR No. 372 PS Sadar Hisar. Petitioner No. 1 filed Civil Writ Petition No. 9172 of 1987. By order dated September 8, 1988, the writ petition was allowed by this Court and the aforesaid FIR was quashed. The State of Haryana filed SLP No. 14014 of 1988 and the same is pending in the Supreme Court. It is with this background that the petitioners apprehend that the respondents are likely to get some false cases

registered against them and arrest the petitioners in order to humiliate and embarrass them.

3. The petition has been, resisted. Opposing the petition, Shri S.C. Mohunta, learned Advocate General Haryana. contended that no blanket anticipatory bail could be granted. He placed reliance on proposition No. 2 in Gurbaksh Singh Sibia v. State of Punjab, AIR 1978 Punjab & Haryana I (Full Bench), which was upheld by the Supreme Court in 1980 SCC (Cri) 465 (490). The Full Bench of this Court laid down that neither section 438, Code of Criminal Procedure, nor any other provision of the Code authorised the grant of blanket anticipatory bail for offences not yet committed or with regard to accusation not so far levelled. It was explained in paragraph 31 of the judgment that granting of blanket anticipatory bail would seriously interfere with the functioning of the police in regard to the exercise of powers statutorily vested in them under the Code of Criminal Procedure. The above proposition was approved by the apex Court with the observation that a blanket order of anticipatory bail should not generally be passed.

4. The question whether a blanket order for anticipatory bail should be passed in the present case or not is rendered academic, as Shri Sibal confined his prayer to the limited relief that a direction may be given to all concerned that in the event of arrest, the petitioners shall be given one week's notice so that they can approach the appropriate Court for anticipatory bail. In support of his aforesaid prayer, he relied on a number of precedents of this Court.

5. In Ram Chander Madhia v. The State of Haryana, 1986(2) Recent C.R. 561 , vigilance enquiry was going on against an exMember of the Haryana Public Service Commission. No case had been registered. He approached this Court for anticipatory bail. The prayer was opposed on the ground that no case had been registered against the petitioner. M.M. Punchhi, J., who now adorns the Bench of the Supreme Court, directed that the petitioner shall be given a week's time to enable him to approach the Court for anticipatory bail.

6. Shri Bansi Lal, exChief Minister, and his two sons were given similar relief in Crl. Misc. No. 9997M of 1989 by order dated December 15, 1989 by S.D. Bajaj, J.

7. Shri Varinder Singh, exMinister, was also given a similar relief in Crl. Misc. No. 2279M of 1989 by order dated March 23, 1990, by Harbans Singh Rai, J.

8. Satish Chander and others were given similar relief in Crl. Misc. No. 3149M of 1989 by order dated May 4, 1989, by S.D. Bajaj, J.

9. No authority to the contrary was brought to my notice by the learned Advocate General, Haryana. He, however, argued that the point was of great public importance and should be referred to a larger Bench, so that it is settled. In view of the fact that this Court has consistently held that in appropriate cases the lesser relief of direction to give notice to enable the petitioner to approach the Court for

anticipatory bail can be given, there is no case for referring the matter to a larger Bench.

For the foregoing reasons, the petition is allowed to the extent that it is directed that the State and its various instrumentalities, including the police, shall give one week's notice in writing to the petitioners in case it is proposed to arrest any of them in order to enable them to approach the Court concerned for appropriate relief of anticipatory bail,