

SUPREME COURT OF INDIA

Bench: JUSTICE SANJIV KHANNA and JUSTICE S.V.N. BHATTI

Date of Decision: SEPTEMBER 27, 2023

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NO. OF 2023
(arising out of SLP (Cri.) No. 8123 of 2023)**

KAHANA RAM APPELLANT(S)

VERSUS

THE STATE OF PUNJAB RESPONDENT(S)

Sections, Acts, Rules, and Article mentioned:

Sections 365, 323, 342, 379B, 506, 34, and 120B of the Indian Penal Code, 1860

Section 3 of the Prevention of Damage to Public Property Act, 1984

Section 438(2) of the Code of Criminal Procedure, 1973

Article 21 of the Indian Constitution

Subject: Interim Protection and Bail in the case of Kahana Ram vs. The State of Punjab

Headnotes:

Criminal Appeal – Interim Protection – Grant of interim protection to appellant Kahana Ram – Petitioner's father in detention for about six months – No sharp or blunt weapon used in the crime – Injuries simple in nature – Appellant's objection to the construction of Pond – Appellant to cooperate with the investigation – No arrest until next hearing – FIR registered under various sections of IPC and Prevention of Damage to Public Property Act – Interim order confirmed. [Para 1-5]

Bail – Release on Bail – Directions for bail if appellant Kahana Ram is arrested – Terms and conditions to be fixed by the trial court – Compliance with Section 438(2) of the Code of Criminal Procedure, 1973.

Decision – Impugned judgment/order set aside – Appeal allowed – Observations made for the purpose of disposal of the appeal, not as findings and observations on the merits of the case.

Referred Cases: None.

ORDER

Leave granted.

By the order dated 17.07.2023, while issuing notice, we have granted interim protection to the appellant – Kahana Ram. The said order reads as under:-

“xxx

xxx

xxx

It is pointed out that the father of the petitioner – Kahana Ram was arrested and has been in detention for last about six months.

It is stated that no sharp or blunt weapon was used in the commission of the crime. The injuries caused are simple in nature.

Further, the petitioner – Kahana Ram was aggrieved, as the construction of Pond was not as per the required parameters and this was objected to by the petitioner – Kahana Ram.

Subject to the petitioner – Kahana Ram joining and cooperating with the investigation by appearing before the Investigating Officer (IO) on 31.07.2023 and on subsequent dates as and when required, the petitioner – Kahana Ram will not be arrested till the next date of hearing, in connection with First Information Report(FIR) no. 03 dated 12.01.2023 registered with the Police Station –Baha Wala, District – Fazilka, Punjab for the offences punishable under Sections 365, 323, 342, 379B, 506, 34 and 120B of the Indian Penal Code, 1860 and Section 3 of the Prevention of Damage to Public Property Act, 1984.”

Learned counsel appearing on behalf of the respondent- State of Punjab submits that the appellant – Kahana Ram has joined and cooperated in the investigation.

Having heard the learned counsel for the parties and in view of the facts and circumstances of the case, we confirm the interim order dated 17.07.2023 and direct that in the event of the appellant – Kahana Ram being arrested in connection with First Information Report(FIR) no. 03 dated 12.01.2023 registered with the Police Station – Baha Wala, District – Fazilka, Punjab for the offences punishable under Sections 365, 323, 342, 379B, 506, 34 and 120B of the Indian Penal Code, 1860 and Section 3 of the Prevention of Damage to Public Property Act, 1984, he shall be released on bail by the arresting/investigating officer/trial court on terms and conditions to be fixed by the trial court. In addition, the appellant – Kahana shall comply with the conditions mentioned in Section 438(2) of the Code of Criminal Procedure, 1973.

Recording the aforesaid, the impugned judgment/order is set aside and the appeal is allowed in the above terms.



We clarify that observations made in this order are for the purpose of disposal of the present appeal, and would not be construed as findings and observations on the merits of the case.

Pending application(s), if any, shall stand disposed of.

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