

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-20887-2015

Date of decision: 04.09.2015

Amit and others

... Petitioners

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.K. Sharma, Advocate
for the petitioners.

Mr. Parveen Aggarwal, DAG, Haryana.

Mr. Ashok Kaushik, Advocate
for the complainant.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioners seek pre-arrest bail in FIR No.38 dated 02.02.2015 under Sections 323, 324, 326, 506, 34 IPC, registered at Police Station Hathin, District Palwal.

Notice of motion was issued and interim protection was granted.

On the last date of hearing i.e. 25.08.2015, learned counsel for the State apprised this Court that petitioner No.2 has joined the investigation and also cooperated with the investigating agency because of which he is no more required for the purpose of any further investigation. However, since petitioners No.1 and 3 did not cooperate with the investigating agency, they were directed to join the investigation again and cooperate with the investigating agency, by passing the following order: -

“Learned counsel for the State, on instructions from HC Mukesh

Kumar, Police Station Hathin, District Palwal, submits that

petitioner No.2 namely Krishan @ Bal Kishan has joined the investigation and also cooperated with the investigating agency. However, petitioner No.1 namely Amit and petitioner No.3 Bijender have joined the investigation but did not cooperate with the investigating agency because of which recoveries could not be effected from them. He further submits that let petitioners No.1 and 3 be directed to join the investigation again and cooperate with the investigating agency.

In view of the above, petitioner No.1 namely Amit and petitioner No.3 namely Bijender are directed to join the investigation again on 28.08.2015 at 10.00 AM and they are further directed to cooperate with the investigating agency.

List on 04.09.2015. ”

Learned counsel for the State, on instructions from HC Mukesh Kumar, Police Station Hathin, District Palwal, submits that although petitioners No.1 and 3 namely Amit and Bijender have joined the investigation but they did not cooperate with the investigating agency because of which no weapon of offence could be recovered from them and they are not entitled for the concession of anticipatory bail. He submits that let the concession of anticipatory bail be granted to petitioner No.2.

At this stage, learned counsel for the complainant submits that petitioner No.2 namely Krishan @ Bal Kishan is the main accused and he is also not entitled for the concession of anticipatory bail. He prays for dismissal of the present petition, in toto.

Faced with the above, learned counsel for the petitioners submits that all the three petitioners have joined the investigation and cooperated with

the investigating agency. None of them is required for further investigation and are entitled for the concession of anticipatory bail.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that so far as petitioner No.2 namely Krishan @ Bal Kishan is concerned, he has been found entitled for the concession of anticipatory bail and the same is hereby granted to him, by affirming the order dated 02.07.2015, however, subject to the conditions envisaged under Section 438 (2) Cr.P.C.

So far as petitioners No.1 and 3 namely Amit and Bijender are concerned, they have not been found entitled for the concession of anticipatory bail. It is so said because despite having been granted two opportunities, although they have joined the investigation but did not cooperate with the investigating agency. It shows that the protected investigation is not bringing any fruits qua petitioners No.1 and 3. In such a situation, their custodial interrogation shall be the compulsive necessity of the investigating agency so as to conduct an effective investigation.

Resultantly, present petition stands allowed, however only qua petitioner No.2 namely Krishan @ Bal Kishan, whereas no case for anticipatory bail has been made out qua petitioner No.1 namely Amit as well as petitioner No.3 namely Bijender and it is accordingly dismissed.

[RAMESHWAR SINGH MALIK]
JUDGE

04.09.2015
vishnu