

CRM-M-14901-2016

Date of Decision : 06.05.2016

Dilip Kumar Verma

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. V. Shekhav, Senior Advocate with
Mr. Aditya Sanghi, Advocate
Mr. C.S. Ashvi, Advocate
Mr. Nishant Anand, Advocate
Mr. Mohd. Sajid, Advocate
for the petitioner.

Mr. G.S. Salwara, DAG, Haryana.

Ms. Ishma Randhawa, Advocate with
Mr. G.S. Gopera, Advocate
for the complainant.**M.M.S. BEDI, JUDGE (ORAL)**

The petitioner seeks concession of regular bail in 22 cases mentioned in the heading of the petition registered at different police stations in the Districts of Sonapat, Kurukshetra, Kaithal, Jhajjar, Rewari, Mahendergarh, Panipat, Hissar, Karnal and Jind. The said FIRs have been registered at the instance of different complainants at different places. When questioned as to why the petitioner did not approach the Courts below for grant of bail, counsel for the petitioner relies upon “**Sundeep Kumar Bafna vs. State of Maharashtra and another, AIR 2014 Supreme Court 1745**” to contend that considering the scope of provisions of Sections 437, 438 and 439 of the Code of Criminal Procedure, the Apex Court has observed that the accused can be granted bail by either the Sessions Court or the High Court.

I have heard learned counsel for the petitioner and gone through the judgments cited by him. The said judgment was passed by the Supreme Court in context to a situation when an accused surrendered before the High Court and sought concession of bail. The Apex Court, taking into consideration the meaning of custody, had arrived at a conclusion that the detention and arrest having not been defined in Cr.P.C., a person will be deemed to be in custody in following situations.

- i) A person is in custody if he surrenders before the police or before appropriate Courts.
- ii) A person is in custody when police arrests him and produces him before a Magistrate or gets him remanded to judicial or other custody.

It was also held that he could be stated to be in judicial custody when he surrenders before the Court and submits to its directions.

In the present case, the petitioner has been arrested by the police in a number of cases.

Learned counsel for the petitioner informs that in all the above said cases, pursuant to the production warrants, the petitioner is produced in the respective Illaqa Magistrates with notice to the State. It has also been informed by counsel for the petitioner that in some cases, the challans have already been presented. Counsel for the petitioner has also submitted that the petitioner has opted not to file any application for regular bail while in custody before any of the Courts in Haryana on account of practical difficulties.

I have heard counsel for the petitioner and I am of the opinion that the judicial propriety demands that petitioner while in custody should have moved application for being released on bail in different cases before the concerned Magistrate. He has got an alternative remedy to move application under Section 439 Cr.P.C. before the respective Sessions Court to seek concession of regular bail. The said procedure having adopted by the petitioner would facilitate the respective Courts to look into the individual cases and grant concession of bail to the petitioner. Besides this, a joint petition in different FIRs is not maintainable that too directly in the High Court.

I have also considered the contentions of learned counsel for the petitioner regarding the practical difficulty. The remedy for such difficulty lies in provision of Sections 407, 408 and 410 Cr.P.C. It will be open to the petitioner to avail the said remedy.

In view of above said circumstances, the petition is dismissed observing that the ratio of the judgment in “*Sundeep Kumar Bafna vs. State of Maharashtra and another, AIR 2014 Supreme Court 1745*” is not applicable to the facts in the present case.

This petition is disposed of with above observations without expression of any opinion on merits in each case mentioned in heading of the petition, relegating the petitioner to avail the alternative remedy of seeking regular bail in different cases separately.

(M.M.S. BEDI)
JUDGE

06.05.2016
Neha