

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

1. CRM-M-34439-2017

Pancham Noor Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRM-M-40216-2017

Vishal Sharma alias Jaggi Ropar

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision :17.11.2017

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Navkiran Singh, Advocate
for the petitioner in **CRM-M-34439-2017**.

Mr. Lalit Pathak, Advocate
for the petitioner in **CRM-M-40216-2017**.

Mr. Kirat Singh Sidhu, DAG, Punjab.

H.S. MADAAN, J. (Oral)

By this order, I shall dispose of two petitions i.e petition bearing **CRM-M-34439-2017** for grant of pre-arrest bail filed by petitioner – Pancham Noor Singh and petition bearing **CRM-M-40216-2017** for grant of regular bail filed by petitioner – Vishal Sharma alias Jaggi Ropar, both of them being accused in FIR No.90 dated 12.07.2017 for offences under Sections 365, 368, 323, 506, 148, 149 IPC and Section 25 of Arms Act (Sections 307 and 120-B IPC added later on) registered with Police Division No.6, Police Commissionerate, Jalandhar.

Briefly stated facts of the prosecution story are that FIR in question was registered on the basis of statement of Beant Singh Brar son of Gursharan Singh resident of village Nathu Wala Garbi Police Station Bagapurana District Moga aged about 23 years on 12.07.2017, wherein he stated that a month earlier he received a video call on his mobile phone purported to have been made by one Maniksha Sharma resident of Mukeria District Hoshiarpur, who kept calling him later on as well; that on 04.07.2017 she told him that she was pursuing Nursing course from Dehradun, after her examination she was returning to Jalandhar, as such, he should met her at bus stand, Jalandhar; that accordingly he went to bus stand, Jalandhar in his Verna car bearing No.PB-48-C-2600, however, Maniksha asked him to go to Gurudwara Singh Sabha, Model Town Jalandhar, he accordingly went there and made a call to Maniksha who asked him to wait there; that in the meanwhile he went to nearby juice bar to get water, then an Alto car bearing No.PB-08-DM-1461 having four

occupants came there, they forcibly took keys of his car and threw those away; that then they blind-folded him with a piece of cloth and started speaking on mobile phone stated that they had taken the persons in custody and reached near Naste Kalan and what was to be done next; that thereafter they took complainant to an isolated place and removed the clothes from his eyes, undressed him and gave him beatings; that they prepared a video movie and had video chat with Preet Phagwara and Teja Pahadiya and made him to abuse Shera Khuban Group and Gonder Group; that they called 8 / 10 more persons one of them was known to him was Jaggi Ropar; that all of them gave beatings to him and caused injuries, two of those persons armed with revolvers and they made the complainant abuse Shera Khuban Group and Gonder Group by threatening him that they would kill him if he did not do so; that in his said statement the complainant stated that Pancham Noor Singh son of Nirmal Singh resident of Phagwara Gate, Jalandhar was amongst four persons who had abducted him from Gurudwara Singh Sabha and he can identify remaining persons if brought before him; that he was given beatings with *Lathies* and then made to wear clothes, thereafter was blind-folded and dropped at crossing after putting him in the Alto car; that they returned him Verna car threatening that if he disclosed the incident to anybody then they would kill his family; that the video clip was uploaded on facebook, youtube and whatsapp. According to the complainant he was admitted to Civil Hospital, Moga and he was scared at that time, he sought taking of action against such persons.

Apprehending his arrest in this case accused Vishal Sharma

alias Jaggi Ropar was arrested in this case, he had moved an application for regular bail which was dismissed by the Court of Additional Sessions Judge, Jalandhar vide order dated 09.10.2017, as such he has approached this Court seeking similar relief. Whereas accused Pancham Noor Singh apprehending his arrest had also approached Court of Sessions vide but his petition was dismissed vide order dated 22.08.2017, therefore, he has also knocked at the door of this Court seeking pre-arrest bail.

Notices of both the petitions were given to the State.

I have heard learned counsel for the petitioners, learned State counsel, besides, going through the record.

Learned counsel for the petitioner – Pancham Noor Singh has argued that there is delay of four days in reporting the matter to the police, the petitioner is not shown to be there in video alleged to have been shoot. Furthermore the complainant himself has got a criminal background, he had been posting his photographs alongwith threatening messages and petitioner - Pancham Noor Singh has been wrongly involved in this case. He has since joined the investigation as per direction issued to him by this Court granting interim bail. He has handed over car, mobile phone and passport to the Investigating Officer, therefore, he is not required by the police for further investigation and pre-arrest bail be granted to him.

Whereas learned counsel representing petitioner – Vishal Sharma alias Jaggi Ropar has argued that such petitioner has falsely been involved, he had not come to Jalandhar on 08.07.2017, two of the co-accused namely Maniksha Sharma alais Mansi and Vishal alias Sachin have

been granted regular bail by Additional Sessions Judge Jalandhar vide order dated 22.08.2017 and 24.10.2017 respectively, therefore, the petitioner be also ordered to be released on bail subject to any terms and conditions which is found proper and appropriate by this Court.

On the other hand learned State counsel has vehemently opposed the petitions contending that the petitioners are specifically named in the FIR and they have committed heinous crime; the petitioners have links with notorious gangsters and if released on bail there is genuine apprehension of their trying to intimidate and threaten the prosecution witnesses and even absconding.

After hearing the rival contentions and going through the record I find that though in terms of order passed by this Court, the petitioner – Pancham Noor Singh is said to have joined investigation and handed over car, passport and mobile phone to the police but then as submitted by the State counsel that he has not disclosed full facts within his knowledge by rendering full co-operation to the Investigating Agency is matter of serious concern.

In a citation **State Represented by the C.B.I. vs. Anil Sharma, 1997(4) RCR (Criminal) 268**, it was observed that *custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail.*

At this stage, question to be decided is that as to whether pre-arrest bail is to be granted or not. The truthfulness of the allegations in the FIR is not to be determined by holding a mini trial and the allegations are to be

taken as such. Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner but in exceptional circumstances. Its purpose is not to screen the criminals from legal action and to save them from custodial interrogation which being more elicitation-oriented, result in the extraction of the important information from mouth of a criminal. Custodial interrogation of the petitioner is necessary for proper and effective investigation. In case such custodial interrogation is denied to the investigating agency, that will leave many loose ends and loopholes, adversely affecting the investigation which is uncalled for.

Petitioner – Pancham Noor Singh is said to have been involved in numerous criminal cases that means he has got past criminal record. Details of criminal cases are given below:-

- i. FIR No.77 dated 14.05.2016 under Sections 323, 324, 452, 427, 148, 149 IPC and Sections 25 / 27 / 54 / 59 of Arms Act registered at Police Division No.3 Jalandhar.
- ii. FIR No.142 dated 05.11.2015 under Sections 323, 307, 34 IPC and Sections 25/54/59 of Arms Act registered at Police Station Division No.3 Jalandhar.
- iii. FIR No.93 dated 12.06.2016 under Sections 25/54/59 of Arms Act registered at Police Station Division No.3 Jalandhar.
- iv. FIR No.90 dated 12.07.2017 under Sections 365, 368, 323, 506 148 and 149 IPC and Section 25 / 54 /59 of Arms Act, Police Station Division No.6, Jalandhar.

The apprehension expressed by State counsel that if released on

bail, there is possibility of his trying to tamper with prosecution evidence by giving threats, inducements to the prosecution witnesses and even absconding cannot be brushed aside lightly. As per allegations against him, he had committed heinous crime of abducting the complainant and then along with his accomplice undressing him giving him beatings, preparing video films, all these things cannot be taken lightly.

Similarly other petitioner – Vishal Sharma alias Jaggi Ropar is also specifically named in the FIR, the allegations against him are also very grave and serious of causing injuries to the complainant. He being in link with the other co-accused also comes out to be there, as regards the other two co-accused are granted concession of bail, they were not specifically named in the FIR and they are no direct allegations of their active participation in the abduction of the complainant and his subsequent maltreatment. Therefore, this petitioner - Vishal Sharma alias Jaggi Ropar cannot seek parity with them. As regards the assertions of delay in lodging FIR that plea may be having some significance during trial, but not at this stage while determining the question of grant of bail to the petitioner – accused. Even otherwise in the FIR itself the complainant has stated that after the incident he was admitted in the hospital and was scared. It does take some time to come out of the fear and then report the matter to the police. Regarding the complainant himself being involved in criminal activities that itself does not dilute the seriousness of the criminal acts attributed to the petitioner. In his case also the contention of the State counsel that if released on bail there are chances of his absconding and

tampering with the prosecution evidence need to be kept mind.

Thus both the petitions i.e. **CRM-M-34439-2017** filed by petitioner – Pancham Noor Singh and **CRM-M-40216-2017** filed by petitioner – Vishal Sharma alias Jaggi Ropar are found to be devoid of merit and are dismissed accordingly.

17.11.2017
Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**