

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-5013-2018

Date of decision : 01.05.2018

Farooq Ahmad @ Farkoo

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gaurav Partap S. Pathania, Advocate
for the petitioner.

Ms.Monika Jalota, DAG, Punjab.

AMOL RATTAN SINGH, J.(ORAL)

Learned counsel for the petitioner has referred to the affidavit of the Assistant Inspector General of Police, Special Task Force, Border Range, Amritsar, dated 31.03.2018, to submit that the vehicle in which the accused were travelling, carrying contraband with them (as per the case of the investigating agency), two persons, Salamu Deen and Mansoor Ahmad Lone, were sitting on the adjoining seat of the driver, i.e. Saif Ali, whereas three persons i.e. Sabaro Deen, Mohammad Rafiq and Azam Khan were sitting on the rear seat of the jeep.

(It is to be noticed that in the affidavit filed by the said officer in reply to the other petition, CRM-M-5013-2018, instead of Salamu Deen, Sabaro Deen has been written as one of the persons on the front seat, whereas in the affidavit filed by the same officer in CRM-M-3468-2018, the name of the Salamu Deen has been given as sitting in the front seat and

Learned counsel for the petitioner thus submits that with only six persons stated to be sitting in the jeep even as per the said affidavit, the latter part of the affidavit, stating that the petitioner ran away after seeing the police, is obviously only “padding the case”.

Having considered the aforesaid argument, this Court necessarily must refer to the fact that upon directions issued, the affidavit also states that as per information received from the SSP, Jammu / Superintendent of Police (Rural), Jammu, the petitioner was in fact not on duty from 06:00 hours on 04.11.2017 to 06:00 hours on 05.11.2017, in support of which averment the letter of the Superintendent of Police, Rural, Jammu, addressed to the AIG, Special Task Force, Amritsar, dated 20.03.2018, has been annexed as Annexure R-1, further supported by a letter from the Sub Divisional Officer Domana, to the Superintendent of Police, Rural, Jammu, (dated 09.03.2018), a copy of which is Annexure R-2.

On the other hand, the petitioner, in paragraph 4 of his petition has specifically stated that he was on duty on 04.11.2017 as would be reflected from the Daily Diary Entry at Police Post Kirpalpur (J&K), with a certificate to that effect also issued by the Incharge of the Police Post at Kirpalpur, a copy of which has been annexed as Annexure P-2 with the petition.

Further, Annexure P-3 with the petition is a letter dated 20.02.2018 issued by the office of the Superintendent of Police, Rural, Jammu to the Deputy Superintendent of Police, Headquarters, Jammu, stating therein as follows:-

“Please refer to your office letter no.RTI/03/2018/58 dated 06-01-2018, regarding the subject cited above.

The matter was got enquired through SDPO Domana who after doing the needful submitted his report which is enclosed here with for further course of action.”

However, with the said letter, (which is a part of Annexure P-3 collectively), the report of the SDPO, Domana, is not annexed alongwith, and instead a letter from the office of the Deputy Superintendent of Police, Headquarters, Jammu, addressed to one Bashir Ahmed on 27.01.2018, has been annexed in reply to an application of that person under the Right to Information Act, 2005, in which the letter of the Superintendent of Police, Rural, Jammu dated 22.01.2018, is also referred. The said letter dated 22.01.2018 is stated to be of 3 pages, but what has been annexed by the petitioner as the last document of Annexure P-3 collectively, is a photo copy of a certificate shown to be issued by the Incharge of the Border Police Force, Kirpalpur (though the word “Kirpalpur” is not clearly discernible), stating as follows:-

“It is to certified that Constable Farooq Ahmed No.466/AP 7th BN, remained present on duty w.e.f. 02-11-2017 to 10-11-2017 vide DD no.09 dated 02-11-2017 and DD no.08 dated 10-11-2017.”

Very obviously, the petitioner while filing the petition, did not annex the report of the Sub Divisional Police Officer, Domana, as has been referred to in the letter of the SP, Rural, Jammu, addressed to the DSP, Headquarter, Jammu, dated 22.01.2018, which is the first document that is a part of Annenxure P-3.

Consequently, the petitioner having deliberately misled this Court to show that he was on duty, with three gazetted officer stating to the

petitioner is supposed to be the person supplying the contraband to his co-accused, as per the case of the prosecution.

The petition is therefore dismissed and the interim order vacated.

However, nothing stated hereinbefore shall be taken by the investigating agency or the competent Court (at the relevant stage) as an actual comment on the involvement or non-involvement of the petitioner in the alleged crime in question, but only with regard to grant of anticipatory bail to him, in the light of documents relied upon by both sides before this Court.

(AMOL RATTAN SINGH)
JUDGE

May 01, 2018.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No