

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33936-2019

Date of Decision: 18.12.2019

Roshan Lal @ Billa

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Satwant Mehta, Advocate,
for the petitioner.

Mr. B.S. Sewak, Addl. A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner seeks the concession of 'anticipatory bail', upon FIR no.59 having been registered at Police Station Bhikhiwind, on 27.06.2019, alleging therein the commission of offences punishable under Sections 420, 489, 473 of the IPC.

The background to the case is that upon two appeals against the Award of the learned Motor Accident Claims Tribunal, Amritsar, having been filed by the petitioner herein, with the said appeals bearing FAO nos.2437 of 2007 and 2438 of 2007, a finding was recorded by this court (coordinate Bench) as follows:-

“The question, which arises for consideration is as to why the testimony of Nirvail Singh be disbelieved. He has come up with denial of accident by him and has attributed the same to some other driver namely Davinder Singh. His version was found to be incorrect and he suffered conviction for causing death of Judge Masih and Raja Masih due to his rash and negligent driving of the offending vehicle. He has categorically stated that the bus was owned by Roshan Lal appellant and he is employee of Roshan Lal, who owned 12/14 buses.

In view of the above evidence on record, the appellant cannot be

allowed to escape his liability because he has played very smart and was using a scrap bus by displaying a fake number plate on it. He had not only cheated the State Exchequer but had also posed danger to the life and liberty of persons travelling in his bus and to users of route of this bus. The finding of the tribunal that he is proved to be owner of the offending vehicle calls for no interference even if no notice of the police report submitted to this Court be taken. The appellant cannot escape his liability merely because he has not got his vehicle registered and ply it as a commercial transport vehicle by using fake number plate.”

Thereafter, while dismissing the appeals, a direction was issued to the SSP, Tarn Taran, to look into the affidavit of the DSP, Valtoha, as also the reports submitted by the said officer to the court, with action as was required to be taken against the appellants, including by registering an FIR in accordance with law, to be taken.

Thus, the FIR in question was registered on 27.06.2019, the date of the order of this court being April 30, 2019. The essential allegation in the FIR is that the bus stated to have been owned by the petitioner neither carried a proper registration number, with even the chassis and engine number having been removed.

Initially even though notice of motion was issued, no interim protection had been granted to the petitioner by this court but thereafter, upon learned counsel for the petitioner having submitted (with State counsel having put in appearance) that other than the statement of one Nirvail Singh, there was nothing to connect the petitioner to the bus that had been recovered by the police, on that averment made, he was ordered to join investigation, upon which if he sought to be arrested, he would be admitted to interim bail.

He having joined investigation, the contention of the learned State counsel on the subsequent dates had been that though he had joined investigation, he was not however 'cooperating', inasmuch as he was not disclosing as to from where he had come into possession of the bus.

On 16.12.2019, the following order had been passed:-

“Learned counsel for the petitioner submits that as per her instructions the petitioner in fact had gone to Phagwara with a Constable to point out the place from where he had purchased the bus in question, but with the scrap dealer from whom he had purchased it (as contended) allegedly no longer being there and in fact a mall having been built on the site where the scrap dealer had his shop.

Learned State counsel, on instructions from SI Narinder Singh, submits that the petitioner went on his own to Phagwara and did not take any Constable with him.

Without making any comment as to whether the petitioner or the IO is making an incorrect statement, it is directed that tomorrow, i.e. on 17.12.2019, the investigating officer as also the petitioner would appear in the Court of the learned Area Magistrate, Patti, at 11.00 am, with the Area Magistrate to record the presence of both, after which the petitioner and the investigating officer will go to Phagwara, or which ever other place that the petitioner takes the IO, to point out from where he had purchased the bus (as it is being contended, with no comment actually made on the authenticity of that instruction by the petitioner to his counsel), after which the matter be put up for hearing on 18.12.2019.

To be shown in the urgent motion list.

Interim order to continue till the next date of hearing.

Learned State counsel has also further pointed out that even if the petitioner had purchased the bus from a scrap dealer (as is being contended), normally there would be at least some document executed with regard to the purchase and consequently, the petitioner be directed to put forth that document.

Ordered accordingly.

A copy of this order be given to learned State counsel, under the signatures of the Bench Secretary of this Court.”

Pursuant to the order passed on 16.12.2019, today learned State counsel, on instructions from Sub-Inspector Narinder Singh, submits that the petitioner took him (the Sub-Inspector) to Phagwara and from the site pointed to by the petitioner, it was determined that a workshop of M/s Walia Transport Company was existent there, but with the main gate locked, and upon the watchman having been contacted, he stated that the Proprietor/Partner/Director of

the firm/company is residing abroad and that the Manager of the firm/company was not present in Phagwara. With the said Manager having been contacted, he also stated that he was out of station.

Learned State counsel therefore submits that with the petitioner not actually disclosing the exact place from where he had purchased the vehicle, with the contention of learned counsel appearing for him on 16.12.2019 being to the effect that he had bought the vehicle from a scrap dealer with that scrap dealer no longer 'existent' in Phagwara and instead a Mall existing on the site, but with yesterday, a different story having come forth, the petitioners' custodial interrogation is required.

Having considered the matter, I agree with what has been contended by learned State counsel, even though learned counsel for the petitioner has obviously very vehemently opposed the dismissal of the petition and vacation of the interim order, by submitting that the petitioner having now shown from where he had purchased the bus, there would be no need for his further interrogation.

However, with the petitioner changing his story each time, and with it to be noticed again that the direction for registration of an FIR having been issued by this Court (co-ordinate Bench) on 30.04.2019, while disposing of FAOs No. 2437 and 2438 of 2007, in my opinion, the petitioner is not entitled to remain on interim bail any longer in the circumstances.

Dismissed.

The interim order dated 30.08.2019 stands vacated.

December 18, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No.