

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M-35573 of 2019
Date of Decision: September 13, 2019.

Amit alias Landi

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE ANIL KSHETARPAL.

Present: Mr.Manoj Kumar Taya, Advocate, for the petitioner.

Mr.Munish Bansal, DAG, Haryana.

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Anil Kshetarpal, J. (Oral)

On 03.09.2019, the following order was passed:

“Petitioner prays for grant of anticipatory bail in FIR No.203 dated 15.06.2019 registered under Sections 323, 506, 307, 34 IPC and Section 25 of the Arms Act (Section 307 IPC and Section 25 of Arms Act added later on on 20.07.2019) at Police Station Murthal, District Sonipat.

Learned counsel for the petitioner submits that apart from his other submissions on merit, first informant-injured and the petitioner have already settled their dispute and in the connected petition i.e. CRM-M-37010-2019, quashing of FIR has been sought on the basis of settlement. Affidavit of the first informant-injured has been annexed in the aforesaid petition as Annexure P-2.

Notice of motion.

On asking of the Court, Mr. Manish Bansal, DAG, Haryana accepts notice on behalf of State of Haryana and seeks time to get instructions.

Mr. Neeraj Yadav, Advocate has put in appearance on behalf of first informant-injured and admits the correctness of the settlement.

Adjourned to 13.09.2019.

In the meantime, in the event of arrest, the petitioner

shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.”

Learned State counsel, on instructions from SI Narender Singh, has submitted that the petitioner has joined the investigation, cooperated and not required for further custodial interrogation. It has also been brought to the notice of the Court that the petitioner was granted concession of regular bail by the Chief Judicial Magistrate, Sonipat. However, later on since the offence under Section 307 IPC was added, therefore, the petitioner is sought to be arrested.

In the considered view of this Court, Police/Investigating Agency cannot proceed to arrest the accused merely on the addition of an offence arising from the same incident under a different/severe provision of law unless the Court which granted bail has ordered its cancellation or ordered the arrest otherwise.

Hence, the order dated 03.09.2019 is made absolute subject to the provisions of Section 438(2) Cr.P.C.

However, it is clarified that the petitioner shall continue to cooperate with the trial Court and shall not seek any unnecessary adjournment.

The petition stands disposed of.

September 13, 2019
mohinder

(ANIL KSHETARPAL)
JUDGE