

CRM-M-16492-2020

Vishu Saarwan @ Arun Sarwan

vs.

State of Punjab

Present: Mr. Manpreet Singh, Advocate,
for the petitioner.

Mr.Saurav Khurana, DAG, Punjab.

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.261, dated 19.12.2019, having been registered at Police Station South, City South, District Moga, alleging therein the commission of an offence punishable under Section 21 of the Narcotics and Psychotropic Substances Act, 1985.

On 03.09.2020, the following order had been passed by this court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Learned counsel for the petitioner submits that pursuant to the order dated June 25, 2020, the petitioner had eventually joined investigation on three dates between July 15, 2020 and July 18, 2020, though, initially he could not go due to the Covid-19 pandemic situation.

However, learned State counsel submits that as per his instructions, the petitioner has not joined investigation.

Learned counsel for the petitioner counters by saying that the petitioner had in fact reported for investigation to ASI Baljeet Singh and ASI Raj Kumar at Police Station City South, Moga.

That being so, with it obviously not determinable as to whether the petitioner is mis-instructing his counsel or the investigating officers are mis-instructing learned State counsel, the petitioner is now directed to join investigation by

07.09.2020 and if the investigating officer does not join him in the investigation, he would report to the learned Duty Magistrate, who would then summon the investigating officer and ensure that the petitioner is joined in the investigation; and upon him so joining, if he is sought to be arrested, he shall be released on interim bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/CJM/Ilaqa Magistrate/Duty Magistrate, till the next date of hearing. He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

The SSP, Moga, is also directed to file an affidavit annexing therewith CCTV footage of the cameras installed in Police Station City South Moga, for the period between July 15 to July 18, 2020.

Naturally, the said footage would be seen in detail by the SSP, who will then state on affidavit as to whether the petitioner was ever seen to be coming and leaving the police station from any entrance, between that period, or not.

Adjourned to 21.09.2020.”

Pursuant to the above order, an affidavit of the SSP, Moga, dated September 19, 2020, has been sent by way of “Whatsapp” communication to the Reader of this court who has forwarded it to me (the court proceedings being by way of video conferencing).

It has been stated therein that as per the report of the SHO, Police Station, City South, Moga, the capacity of the DVR of the CCTV cameras installed in the police station is only 15 days and therefore, what was recorded between July, 15 to July, 18, is no longer available.

Otherwise learned State counsel submits that as per his instructions the petitioner has joined investigation, though he is not “co-operating”.

As to what that means I fail to understand, with two of his co-accused already arrested, but be that as it may, without making any further comment on the actual merits of the case, the allegation being that the petitioner allegedly ran away from the sport when two of his co-accused were arrested upon secret information received, and there is also no other criminal

case registered against the petitioner as per instructions of learned State counsel, the petition is allowed with the order dated June 25, 2020 and September 03, 2020, made absolute on the same terms and conditions.

Having said that, the ADGP (Computerisation), Punjab, is directed to file an affidavit stating therein the capacity of the memory of all CCTV cameras installed in the police stations in the State of Punjab, with it to be noticed that the said cameras had also been installed on all entry and exit points of the police stations (as per the affidavit of the DGP, Punjab, filed in another petition), upon directions of this court.

For that purpose, adjourned to 28.10.2020.

September 23, 2020

dharamvir/

(AMOL RATTAN SINGH)
JUDGE