

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision:10.11.2020

CRM-M-24486 of 2020

206/3)

Jakaria

...Petitioner

Versus

State of Haryana

...Respondent

2)

CRM-M-34043 of 2020

Ruwan

...Petitioner

Versus

State of Haryana

...Respondent

3)

CRM-M-34305 of 2020

Irfan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Munfaid Khan, Advocate
for the petitioners in Sr. No.1 and 2.
Mr. Santosh Kumar, Advocate
for the petitioner in Sr. no.3.
Mr. B.S. Virk, DAG, Haryana

Amol Rattan Singh, J. (Oral)

All the 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.

On 29.09.2020, the following order had been passed in CRM-M-24486 of 2020:-

“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.106, dated 20.07.2020, having been registered at Police Station Rojka Meo, District Nuh, alleging therein the commission of offences punishable under Sections 3/13(1), 8/13(3) and 17 of the Haryana Gausamvardhan Sanrakshan and Gausamvardhan Act, 2015.

In response to the last order passed, a reply of Sh.Gaurav Fogat, DSP, Nuh, has been sent by way of a "Whatsapp" communication to the Reader of this court, with a print out thereof having been sent to me.

Learned counsel for the petitioner submits that the petitioner has only been arraigned as an accused on a disclosure statement allegedly made to the police, by those who are stated to have been apprehended at the spot with beef and weighing scales etc. (as per the case of the investigating agency).

Learned State counsel, on the basis of the affidavit of the DSP, submits that other than the present case there are other criminal cases registered against the petitioner, alleging the commission of the same offence.

Having considered the fact that the petitioner was only stated to have been named in a disclosure statement allegedly made, without making any comment on the actual merits of the case, the petitioner is directed to join investigation within one week and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/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.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.

Adjourned to 10.11.2020."

And similarly, on 27.10.2020, the following order had been passed in CRM-M-34043 of 2020:-

"Learned counsel for the petitioner relies upon an order passed by this court in the case of a person, who he says is

identically placed, i.e. Jakaria, with that person having been admitted to interim bail by this court on September 29, 2020 (vide the order Annexure P-2).

Notice of motion is issued to the respondent-State, with Ms. Sheenu Suri, learned DAG, Haryana, accepting notice at the asking of the court.

She submits that as per her instructions, the petitioner has many other cases registered against him and as such he does not deserve the concession of 'anticipatory bail'.

The order passed on September 29, 2020, is reproduced herein below:-

"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.106, dated 20.07.2020, having been registered at Police Station Rojka Meo, District Nuh, alleging therein the commission of offences punishable under Sections 3/13(1), 8/13(3) and 17 of the Haryana Gausamshh Sanrakshan and Gausamvardhan Act, 2015.

In response to the last order passed, a reply of Sh.Gaurav Fogat, DSP, Nuh, has been sent by way of a "Whatsapp" communication to the Reader of this court, with a print out thereof having been sent to me.

Learned counsel for the petitioner submits that the petitioner has only been arraigned as an accused on a disclosure statement allegedly made to the police, by those who are stated to have been apprehended at the spot with beef and weighing scales etc. (as per the case of the investigating agency).

Learned State counsel, on the basis of the affidavit of the DSP, submits that other than the present case there are other criminal cases registered against the petitioner, alleging the commission of the same offence.

Having considered the fact that the petitioner was only stated to have been named in a disclosure statement allegedly made, without making any comment on the actual merits of the case, the petitioner is directed to join investigation within one week and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the

arresting officer/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.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.

Adjourned to 10.11.2020.”

Without making any comment on the actual merits of the case, since an identically placed person has already been admitted to interim bail by this court, the petitioner is directed to join investigation within five days, and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaqa Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

Adjourned to 10.11.2020.

To be heard along with CRM-M-24486 of 2020.”

Today, learned State counsel, on instructions, submits that the petitioners in both the petitions have joined investigation and presently at least their custodial interrogation is not required.

That being so, without making any comment on the actual merits of the case, whatsoever, since the investigating agency itself does not require the custodial interrogation of the petitioners, these two petitions have in fact been rendered infructuous and are disposed of as such.

However, if the petitioners' custodial interrogation is required at

any stage hereinafter, in the context of the FIR in question, they would be given 7 days notice before arrest, duly shown to be served upon him.

CRM-M-34305 of 2020

The petitioner in this case having been caught at the spot with beef (as per the case of the investigating agency) and he having spent only 3 months and 19 days in custody as yet, with the petitioners' counsel not able to assist this court as to the maximum sentence that could be imposed if he is convicted, the hearing in the matter is adjourned to 27.11.2020.

A copy of this order be placed on the file of the other connected matters too.

10.11.2020
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No