

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

204

**CRM-M-24932-2020
Date of decision: 06.10.2020**

JAID ALI

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Munfaid Khan, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video
conferencing.)

The petitioner has filed the present (first) petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in case FIR No.209 dated 06.10.2018 registered under Section 395 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Rozka Meo, District Nuh.

The above said FIR was registered on statement of complainant Rasheed who alleged that he is employed as driver on Hyva No.HR-74A-7319 owned by Nafees for the last one month. On the night of 05.10.2018 he started for Gurgaon after loading 'dust' in his vehicle from Nagal (Rajasthan). After crossing Rewason village he stopped his vehicle to give rest to the tires and slept in the vehicle. On 06.10.2018 at about 4:22 A.M. he received phone call from his co-villager Isub, who had started with his vehicle from Nangal (Rajasthan) with him and had reached Gurgaon, asking as to where he was as he

had not reached Gurgaon. In the meantime, one Swift Dzire car without number plate stopped in front of his vehicle. Five young boys alighted from the said car and three boys from conductor side and two boys from driver side climbed into his vehicle. The boys gagged his mouth and gave him slaps, snatched his mobile and Rs. 2000/- from his pocket by saying that they are the financiers and there was default in payment of installments. Three persons took him down while two persons remained in his vehicle. Those three persons put him on the back seat of the swift car and drove him to an isolated place, later identified to be in the area of village Pahadi, District Palwal, and threw him there out of the car. The police investigated the case. During investigation Rasheed identified Jaid Ali (the petitioner) and his co-accused Najjakat @ Najja, Mustufa, Juber and Washid @ Mulla as the persons who had snatched his vehicle. The petitioner could not be arrested while challan was filed against Washid @ Mulla and Mustufa but during trial Rashid did not identify them on which they were acquitted vide order dated 31.10.2019.

Apprehending his arrest, the petitioner has filed the present petition for grant of anticipatory bail.

Learned Counsel for the petitioner had submitted at the time of hearing on 28.08.2020 that the petitioner was falsely implicated in present FIR registered against unknown persons. After four months Rasheed employed as driver on the snatched vehicle, made statement implicating petitioner-Jaid Ali and co-accused Najjakat @ Najja, Mustufa, Juber, Washid @ Mulla as the persons involved in the alleged snatching. During trial Rasheed did not identify Washid @ Mulla and

Mustufa as the persons who had snatched the vehicle. First petition for grant of anticipatory bail filed by the petitioner was dismissed as withdrawn by this Court vide order dated 31.10.2019 before making of said statement by Rasheed before learned Sessions Judge, Mewat. The petitioner is ready to join the investigation and also test identification parade, if any, to be got conducted by the Investigating Officer of the case.

Vide order dated 28.08.2020 passed by this Court the petitioner was granted interim anticipatory bail and directed to join the investigation within 15 days and also to join test identification parade, if any, to be got conducted by the Investigating Officer of the case in accordance with law.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Surender Singh HPS, Deputy Superintendent of Police, Taoru filed in the registry, which is taken on record. In the reply it has been inter alia mentioned that during test identification parade the petitioner was identified by complainant-Rasheed to be one of the offenders who snatched the vehicle from him.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has, while reiterating submissions made earlier, submitted that the petitioner has joined investigation and his custodial interrogation is not necessary.

On the other hand, learned State Counsel has submitted that test identification parade of the petitioner was got conducted during which the complainant identified the petitioner as one of the

persons who snatched the vehicle from him. Custodial interrogation of the petitioner is required for thorough investigation of the case. The petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

In ***P. Chidambaram v. Directorate of Enforcement (SC) : 2019(4) R.C.R.(Criminal) 875*** Hon'ble Supreme Court observed as under :-

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

In ***Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379***, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See also ***D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434***, ***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213*** and ***Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305.***)

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, the role attributed to him, the

fact that he has been identified by the complainant in test identification parade and also that his custodial interrogation is required for thorough investigation of the case, I am of the considered view that the petitioner does not deserve grant of anticipatory bail.

In view of the above discussion, the present petition for grant of anticipatory bail to the petitioner is dismissed.

06.10.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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