

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

211

CRM-M-30626-2020

Date of decision: 12.11.2020

Mehmood @ Moda

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Namit Khurana, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana for the respondent-State.

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Corona Virus (Covid-19) Pandemic.

Through the instant petition filed under Section 438 of the Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No.210 dated 02.12.2019 registered under Sections 379, 411 IPC and 32, 33 of Indian Forest Act, 1927 and Sections 27, 29 of Wild Life (Protection) Act, 1972 at Police Station Sadar, Jadadhari.

As per the version of the prosecution, a secret information

was received that the petitioner along with the co-accused were indulging in smuggling of *khair wood* after cutting the same from the Kalesar Forest. A check post was set up on the Chhachhrauli-Jagadhari-Ponta Sahib Road and two vehicles were apprehended. The first vehicle was a Scorpio from which the three co-accused were arrested. It was followed by Tata 407 vehicle which was carrying logs of *khair wood*, but the occupants of this vehicle fled from the spot. The petitioner was named as one of the occupant of the second vehicle and was arraigned as an accused on the disclosure statement of the co-accused.

Counsel for the petitioner has argued that the petitioner has been falsely framed as he was neither present nor arrested at the spot. His contention is that the vehicles and the wood had already been recovered. No specific role has been attributed to the petitioner. The petitioner has been arrested on the disclosure statement of co-accused, who are in custody and such statement is not a substantial evidence. He further submits that the petitioner is ready to join the investigation and was involved in another criminal case wherein he is on anticipatory bail.

Per contra, learned State counsel, upon instructions from SI Manoj Kumar has opposed the petition on the ground that the accused is a habitual offender and has been involved in similar type of offences earlier but did not disclose the same in his petition. Upon instructions, the State counsel further submits that specific information has been received naming 8 accused, out of which 5 are in custody and the remaining three, including the petitioner, are yet to be arrested. He submits that the tools used by the petitioner, the manner in which the theft had taken place and

the other details are yet to be found out and therefore, the custodial interrogation of the petitioner is required.

I have considered the rival submissions of the parties.

From the reply filed by the State, it is apparent that the petitioner has been involved in similar type of offences at earlier point of time. The State has submitted that the following cases are registered against the petitioner, which he has deliberately concealed from this Court;

- i. FIR No.30 dated 29.02.2020, registered under Sections 332, 353, 379, 411, IPC, Sections 25 of Arms Act and Sections 32, 33 of Forest Act, 1927, Sections 27, 29 of Wild Life (Protection) Act, 1972 at Police Station Sadar Jagadhari.
- ii. FIR No.190/06 registered under Section 379, IPC at Police Station Mullana.

Though the petitioner has been granted anticipatory bail in FIR No.30 dated 29.02.2020, but the fact remains that he did not disclose his criminal antecedents in the petition. Both the cases, in which the petitioner is allegedly involved, are offences with somewhat similar allegations. Discretionary relief of anticipatory bail is not meant for a person, who approaches the Court with tainted hands and tries to mislead the Court.

Besides the possibility of involvement of petitioner in other cases involving illegal felling of forest trees and their smuggling, the mode and modus operandi of the entire exercise, the tools used in cutting the trees and the places/persons to whom the stolen forest wood is sold, is

yet to be found out. The custodial interrogation of the petitioner is therefore, imperative for the prosecution. Further, one cannot lose sight of the fact that a person who indulges in vandalisation of the depleting forest and natural resources, is not entitled to grant of concession of anticipatory bail. No ground is made out for exercise a discretion in favour of the petitioner. The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

12.11.2020

pooja saini

(SUVIR SEHGAL)**JUDGE**

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No