

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M- 33830 of 2020

Date of Decision: 21.10. 2020

Akash alias Raja

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner(s).

Mr. Bhupender Beniwal, Assistant Advocate
General, Punjab for the respondent.

Anil Kshetarpal, J.

The petitioner prays for grant of pre-arrest bail in a criminal case arising from FIR No. 23 dated 02.03.2020, registered under Section 457 & 380 IPC at Police Station Nangal, District Ropar.

Learned counsel for the petitioner draws attention of the Court to the order dated 03.06.2020, passed by a Co-ordinate Bench in ***Rocky v. Sate of Punjab (Criminal Misc. No. M-13849 of 2020)***, which is extracted as under:-

“The Court has been convened through video conferencing due to Covid-19 pandemic.

Present petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.23 dated 02.03.2020, under Section 457, 380 IPC, registered at Police Station Nangal, District Rupnagar.

Notice of motion.

Mr. Amit Mehta, Sr. DAG, Punjab, who is present through video conferencing accepts notice on behalf of the respondent-State. Advance copy of the petition has already been served upon the State.

Counsel for the petitioner submitted that the allegation against the petitioner is regarding theft of Rs.600/- and a battery from the shop of the complainant. The alleged theft is said to have taken place on 27.02.2020. However, the FIR was lodged against one Raja and the present petitioner on 02.03.2020. The delay in itself shows that the same is false and fabricated. He further submits that no doubt the petitioner is involved three other cases but out of those three cases, FIR already stands quashed in one, in the second case he stands acquitted and the third case which is under the Punjab Excise Act, is pending against the petitioner.

State counsel has opposed the bail application on the ground that the petitioner is a habitual offender and does not deserve the concession of anticipatory bail.

I have considered the rival arguments. The involvement of the petitioner in the offence is debatable. There is a delay of five days in the registration of the FIR.

Keeping in view the facts and circumstances and without commenting on the merits of the case, this petition is allowed. The petitioner shall join the investigation and would be present as and when called for and in the event of arrest, the

petitioner shall be admitted to bail on his furnishing personal and surety bonds to the satisfaction of Arresting Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

It is clarified that any observation made herein above shall not be construed as an expression of opinion on the merits of the case. If the petitioner does not join the investigation that it will be open to the State to file an application to recall the order”.

The alleged Rocky is a co-accused of the petitioner. Learned counsel for the petitioner contends that the case of the petitioner is on better footing as the petitioner is a person of clean antecedents and he has been falsely implicated.

Notice of motion.

On the request of the Court, Mr. Bhupender Beniwal, Assistant Advocate General, Punjab accepts notice on behalf of the respondent.

Mr. Beniwal has submitted that as per his information, the petitioner is not involved in any other criminal case.

Keeping in view the aforesaid facts, the present petition is disposed of in the same terms as ordered in Criminal Misc. No. M-13849 of 2020.

(Anil Kshetarpal)
Judge

October 21, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No