

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

CRM-M-34398-2020

Date of Decision: 28.10.2020

Narinder @ Bhola

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rahul Rathore, Advocate for the petitioner.

Mr. Pankaj Mulwani, Deputy Advocate General, Haryana.

Mr. Vivek Goyal, Advocate for the complainant.

AVNEESH JHINGAN, J..

This petition is filed seeking pre-arrest bail in FIR No. 1046, dated 28th December, 2018 under Sections 285, 323, 506, 427, 307 and 334 of the Indian Penal Code, 1860 ('IPC'), Sections 25 and 54 of the Arms Act, 1959 and Section 379-B of IPC added later on, registered at Police Station Assandh, Karnal.

The facts in brief are that the FIR was registered at the instance of Rajinder. It was alleged that mother of the petitioner and one Ramesh were partner in a Hatchery by the name of M/s Veer Agro. There was some dispute with regard to money. The complainant had sided Sudhir in panchayat, for which the petitioner had a grievance against him. On 27th December, 2018, at about 9:15 P.M., petitioner along with Parveen and Raju came to the Hatchery, gave beating to the complainant and snatched mobile phone of OPPO make. When the petitioner tried to run away, Narinder and other accused fire two shots at him.

This Court vide order dated 18th January, 2019 refused the concession of pre-arrest bail to the petitioner, thereafter the petitioner was arrested. A country made pistol of .9mm was recovered and empty shells were recovered from the place of incident. During the investigation, Section 307 and 379-B of IPC were deleted. The petitioner was released on regular bail on 26th April, 2019. As the higher officials were not satisfied with the investigation, SIT was constituted. During the course of investigation, Section 379-B of IPC was re-introduced. After addition of the section, an application for grant of anticipatory bail was moved, same was dismissed vide order dated 28th August, 2020. Hence the present petition.

Learned counsel for the petitioner submits that the matter was re-investigated again and again till Section 379-B of IPC was added. Contention is that Section 379B has wrongly been added. The petitioner was on bail and had never utilized the concession of bail, he is ready to cooperate in the investigation.

Learned State counsel opposes the prayer. It is submitted that the SIT had re-looked into the matter and came to the conclusion that the petitioner had snatched mobile from the complainant. He relies upon the report of the SIT. The contention is that allegations are serious, gun shots were fired. Further contention is that due procedure would be followed after addition of new Section.

Learned counsel for the petitioner submits that the application for cancellation of bail has already been moved and notice issued to the petitioner, there is an apprehension of arrest.

Having perused the paper book and SIT report produced, no case is made out for grant of anticipatory bail. The SIT found that the

petitioner had got recovered a wrong phone or a phone by changing its IMEI Number. As per the FIR, mobile of OPPO F1 Plus model was snatched. The phone got recovered by petitioner was of JIO LYF Flame model. On checking the location of the snatched mobile, it was found in village of the petitioner. It was recommended that mobile be got checked from the company as to whether the IMEI number was changed. As a result of further investigation, Section 379-B was added. Since the matter needs further probe for which custodial investigation may be required, the prayer for anticipatory bail is rejected.

There is another aspect of the matter, that the petitioner was granted regular bail, it is an admitted position that the petitioner had received notice in the application moved for cancellation of bail. He will have an opportunity to put forth his aspect of matter before the Court concerned in the matter of cancellation of bail. There is no dispute that the issue of cancellation of bail would be decided upon the merits of the case.

The petition is dismissed.

It is made clear that observations made hereinabove are only to decide the prayer of anticipatory bail and shall not be construed as an opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

28th October, 2020

pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |