

CRM-M-35736 of 2019 (O&M)

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

CRM-M-35736 of 2019 (O&M)
Date of Decision: 05.02.2020

Varinder Singh @ Jhirmal

...Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Anureet S. Sidhu, Advocate, for the petitioner.
Mr. Pawan Sharda, Sr. DAG, Punjab.
Mr. A.K. Sama, Advocate, for the complainant.

RAMENDRA JAIN, J. (ORAL)

Through instant second petition under Section 438 Cr.P.C. prayer has been made for grant of anticipatory bail to the petitioner – Varinder Singh @ Jhirmal – in case FIR No.70 dated 13.05.2019 registered under Sections 341, 506, 188, 34 IPC (Section 508 IPC wrongly written in impugned order dated 22.05.2019 instead of Section 506 IPC) and Sections 25 and 27 of the Arms Act, 1959 at Police Station Arniwala, District Fazilka.

Vide order dated 05.09.2019, petitioner was permitted to join investigation with direction to the investigating officer to release him on bail, in case, he is sought to be arrested, on his furnishing bail bonds and surety bonds to the satisfaction of investigating officer. On the adjourned date, learned counsel for the complainant resisted grant of anticipatory bail to the petitioner. He also filed reply.

Heard.

Main plank of arguments of learned counsel for the

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complainant is that arms licence of the petitioner had already expired four months prior to the alleged date of occurrence. Even during Lok Sabha elections every arms licence holder has to deposit his arms with the police or some arms dealer. Petitioner also did not comply with said mandatory direction. Second petition of the petitioner for grant of anticipatory bail is not maintainable. In support of his argument, learned counsel relied upon ***Ganesh Raj v. State of Rajasthan and others***, 2005(3) R.C.R.(Criminal) 30 (Rajasthan), ***Sanjeev Kumar v. Central Bureau of Investigation through its Director***, 2005(2) R.C.R.(Criminal) 856 (P&H), ***Raghunath Meena and another v. State of Rajasthan***, 2015(47) R.C.R.(Criminal) 709 (Rajasthan), ***M/s Maheshwari Kumari v. State***, 2008(25) R.C.R.(Criminal) 13 (Calcutta) and ***Balbir Kumar v. State***, 2006(23) R.C.R.(Criminal) 615 (Delhi).

Learned State counsel, on instructions from the investigating officer, submits that petitioner has already joined the investigation and is no more required for custodial interrogation.

Instant petition was listed on 19.12.2019 before a Co-ordinate Bench of this Court, who adjourned the case for today on account of absence of counsel for the complainant observing as under: -

“Today again the turn of the case has come well after 4:00 p.m. and the counsel for the complainant is not present.

As a matter of fact, I see no reason to not allow the petition and confirm the order passed on 05.09.2019, in view of the fact (to repeat yet again) that the investigation agency itself has instructed learned State

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counsel that the petitioners' custodial interrogation is not required; however, as counsel for the complainant on two dates previously had been insisting that he would address arguments, and no order should be passed adverse to a counsel well after court hours, simply to grant him time to address arguments, adjourned to 05.02.2020, with the interim order to continue.

It is to be observed that even if this bail was to be confirmed on the statement made on behalf of the investigating agency, naturally the right of the complainant to pursue any remedies qua his grievances as regards even the investigation process, would always be available to him.”

Second anticipatory bail petition is very much maintainable inasmuch as first one was got dismissed as withdrawn. Thus, same was not decided on merits.

Facts and circumstances of the authorities referred to above, relied upon by learned counsel for the complainant are altogether different from the facts of the present case. Therefore, no benefit of the same can be given to the complainant.

In view of above, order dated 27.11.2019 passed by this Court is made absolute.

Disposed of accordingly.

February 05, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No