

CRM-M-32857-2020

Date of Decision: 19.04.2021

Somi Sidhu ...Petitioner
Versus
State of Haryana ...Respondent

2. CRM-M-1076-2021

Seema Devi ...Petitioner
Versus
State of Haryana ...Respondent

3. CRM-M-2792-2021

Kuldeep Singh ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Arav Gupta, Advocate,
for the petitioner (in CRM-M-32857-2021).

Mr. Ashish Gupta, Advocate for
Mr. Rakesh Gupta, Advocate
for the petitioners (in CRM-M-1076 and 2792 of 2021).

Mr. Neeraj Poswal, AAG, Haryana assisted by
SI Vijay Kumar.

Mr. Jagdish Manchanda, Advocate,
for respondents no. 2 to 6 in CRM-M-1076-2021.

AMOL RATTAN SINGH, J. (Oral)

Cases heard by video conferencing.

By these petitions, the petitioners seek the concession of
'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR
No.182, dated 15.09.2020, having been registered at Police Station Babain,
District Kurukshetra, alleging therein the commission of offences punishable

under the provisions of Sections 409 and 420 of the IPC.

All the petitioners had been directed to join investigation at different points of time by this court with an interim order passed in their favour at such time, that upon so joining if they were sought to be arrested they would be admitted to interim bail to the satisfaction of the arresting officer/the Area Magistrate concerned.

Thereafter, with the matters having effectively remained pending since 16.10.2020, on April 07, 2021, the following order had been passed by this court:-

“Case heard via video conferencing.

Upon query to learned State counsel, he submits that the petitioner (in CRM-M-1076-2021) has not joined investigation despite the order of this court dated 17.03.2021.

In response thereto, Mr. Gupta, learned counsel for the petitioner, submits that the petitioner had actually gone to join investigation on 19.03.2021 but was informed by an official in the police station that the investigating officer, i.e. Sub-Inspector Vijay Kumar, was away on investigation in some other matter and consequently, the said petitioner thereafter, contacted the said Sub-Inspector telephonically, who informed her that on his return he would come to her house himself to conduct investigation. He submits that thereafter the petitioner was unwell and also had to attend a marriage and was told that she may join investigation after attending the marriage. Thereafter, a police official having come on 21.03.2021 to her house, he had obtained her signatures on blank papers and told her to come to join investigation on 22.03.2021 but with her allegedly having been told on that date that since 05 days had already passed since the order of this court dated 17.03.2021, she could not be allowed to join investigation.

Consequently, she approached the Ilaqua Magistrate on 25.03.2021 and the Ilaqua Magistrate also, vide an order passed on that date, stated to the same effect, i.e. that since the period of 05 days had elapsed in terms of the order of this court dated 17.03.2021, she could not summon the investigating officer to allow the petitioner to now join investigation.

Learned State counsel, on the other hand, has read out from the application made by the petitioner to the learned Area Magistrate to submit that the story given herein is not exactly matching with the story given in the version to this court today.

Though there does seem to be some discrepancy in the said application and it is not understood as to why the petitioner approached the Area Magistrate only on 25.03.2021, however, the earlier part of what has been contended by learned counsel for the petitioner seems to be the same.

Be that as it may, it is made clear that unless the entire record of the '*Gram Panchayat*' as is required is produced before the investigating officer by any of the accused before the next date of hearing, these petitions shall stand dismissed on the next date of hearing as enough time had already been given by this court for the record to be produced with the petitioners all levelling allegations one against the other to the effect that the other person has the record.

For that purpose, the petitioner in CRM-M-1076-2021, will now join investigation tomorrow itself, i.e. 08.04.2021, by appearing before the learned Area Magistrate, who will then summon the investigating officer and ensure that she is so joined immediately the investigation, in terms of the order of this court dated 17.03.2021, as also this order.

Adjourned to 19.04.2021.

To be shown in the urgent motion list.

Interim order to continue, till the next date of hearing only and specifically.

Any request for an adjournment made on that date by any counsel will entail immediate dismissal of that petition.

A copy of this order be given to learned counsel for the petitioners as also learned State counsel under the signatures of the Bench Secretary of this court.

A photocopy of this order be placed on the file of the other connected cases.”

Today, at the outset, Mr.Ashish Gupta, Advocate, appearing for Mr.Rakesh Gupta, Advocate for the petitioners in CRM-M-1076 and 2792 of 2021, i.e. the *Sarpanch*, Seema Devi and her brother, Kuldeep Singh, submits that since Mr. Rakesh Gupta is unwell an adjournment may be granted.

With it having been made amply clear by this court on the last date that if the petitioners did not produce the record of the *Gram Panchayat* as was being sought by the investigating agency the petitions would stand dismissed, today I see absolutely no ground to entertain that request, which is consequently declined.

Upon query to learned State counsel he submits that none of the the petitioners have still produced the record of the *Gram Panchayat* before the investigating agency.

It is to be noticed that (as recorded in a previous order), as per the statutory rules/instructions framed thereunder, the record of the Gram Panchayat is to be kept with the Panchayat itself, i.e. essentially under the charge of the *Sarpanch*.

Hence, the contention of learned counsel for the petitioner in CRM-M-32857-2020 (the *Gram Sachiv*) had been that he cannot be in any case accused of having kept the record himself.

However, counsel for the added respondents, i.e. the *Panches* who are stated to have complained at the first instance to the Block Development and Panchayat Officer, had pointed out that statements had been made by the *Sarpanch* and the *Gram Sachiv*, at different points of time, admitting that the record was either with one or the other.

As regards the petitioner in CRM-M-3285-2020, Mr. Arav Gupta, Advocate appearing for him, submits that he may be allowed to withdraw the present petition.

Consequently, CRM-M-32857-2020 is ordered to be dismissed as having been withdrawn, with the interim order passed in favour of the petitioner obviously hereby vacated.

As regards CRM-M No.1076 and 2792 of 2021, for the reasons already given in the order dated 07.04.2021, and hereinabove, the said petitions are dismissed, with the interim orders vacated.

Obviously, however, none of the observations made in any order passed by this court would reflect on the actual merits of the case for or against the petitioners, or any of the accused, all such observations having been made

in the context of petitions filed under the provisions of Section 438 Cr.P.C.
only.

A photocopy of this order be placed on the file of the connected
case.

April 19, 2021
dharamvir/

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO