

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102)

CRM-M-5706 of 2021

Date of Decision: 05.10.2021

Rahish

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Munfaid Khan, Advocate, for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

On 09.02.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.166, dated 6.9.2020, having been registered at Police Station Bichhor, District Nuh, alleging therein the commission of offences punishable under Sections 5/13(2) of the Haryana Gausvansh Sanrakshan and Gausamvardhan Act, 2015.

Learned counsel for the petitioner submits that the petitioner has only been named as the accused in the FIR because of other similar cases registered against him, whereas actually the cows which are alleged to have been recovered do not belong to him and he has only been identified on information given by a secret informer and secondly, as per the FIR itself, he having been identified by such secret informer, though the recovery is shown to be after nightfall.

Notice of motion.

Mr.B.S.Virk, learned DAG, Haryana, accepts notice at the asking of the court and submits that the petitioner being a habitual offender in respect of similar offences, he does not deserve to be admitted to anticipatory bail.

Having considered the matter, looking at the fact that the petitioner was allegedly identified at night by a secret informer, without making any comment on the actual merits of the case, he is directed to join investigation within one week and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.

Adjourned to 1.4.2021.”

Thereafter on April 01, 2021, learned State counsel has informed this court that though the petitioner had joined investigation, he had misled this court and concealed the fact that there were other FIRs registered against him, with him having stated in paragraph 7 of his affidavit that there was no other FIR registered against him other than the one in question in the context of which he is seeking to be admitted to anticipatory bail.

A gazetted officer had therefore been directed to file a reply to the petition, giving therein the status of all other FIRs registered against the petitioner, with hearing in the matter adjourned to 27.09.2021, on which date since the turn of the case had come up after 4.00 p.m., counsel for the petitioner was not present and consequently the hearing in the matter had been adjourned till today, with an affidavit already having been filed on 27.09.2021 by the DSP, Ferozpur Jhirka, dated 22.09.2021.

In paragraph 6 of the said affidavit, it is shown that there were

10 FIRs registered against the petitioner, other than the one in question, with him having been acquitted in 5 cases but with the remaining 5 cases still being under trial.

Today counsel for the petitioner has submitted that the petitioner is an illiterate man and therefore his instructions to counsel were in terms of what is stated in paragraph 7 thereof.

It is to be noticed that, as in the case of every petition, this petition is also accompanied by an affidavit of the petitioner dated 04.02.2021, shown to be thumb marked by him, stating therein specifically that the petition had been prepared and had been drafted under his instructions and authority, with the contents thereof having been read out to him and understood by him and that they are correct to his knowledge.

In view of the above, it has to be held that the petitioner has deliberately withheld information from this court as regards 10 other FIRs registered against him, with it being impossible for this court to hold that he did not even know of those FIRs and therefore could not inform his counsel, even if he is illiterate. Obviously he was very much aware of proceedings of those FIRs, with him having been acquitted in 5 cases and with him facing trial in 5.

Consequently, without making any comment on the merits of the case, in my opinion, this is not a petition by which the petitioner should be allowed to be admitted to bail under the provisions of Section 438 of the Cr.P.C.

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Therefore, this petition is dismissed, with the interim order passed on 09.02.2021 vacated.

05.10.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No