

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

201

**CRM-M-8618 of 2021
Date of Decision:13.09.2021**

Sushil Kumar Trivedi

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jai Bhagwan Sharma, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana

Mr. Amit Chaudhary, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

Vide this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.348, dated 27.10.2020, having been registered at Police Station Gadpuri Palwal, District Palwal, alleging therein the commission of offences punishable under Sections 408, 420 and 120 of the IPC, with Section 406 thereof added subsequently in the FIR and Section 120-B inserted by a correction instead of Section 120 thereof (by an order of the learned Sessions Judge, Palwal, copy Annexure P-2).

On 24.02.2021 the following order had been passed by this court:-

“By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of ‘anticipatory bail’, upon FIR no.348, dated 27.10.2020, having been registered at Police Station Gadpuri, District Palwal, alleging therein the commission of offences punishable under the provisions of Sections 408, 420 and 120 of the IPC, with Section 406 thereof added subsequently in the FIR and Section 120B inserted by a correction instead of Section 120 thereof, by an order of the learned Sessions Judge, Palwal (copy Annexure P-2).

Learned counsel for the petitioner submits that the co-accused of the petitioner, Narinder, on whose instructions some other employees, i.e. Kapil, Subodh and Netarpal etc., are alleged to have signed the receipts, has been granted bail by the learned Sessions Judge, but with the petitioners’ petition before that court having been dismissed on the ground that he was the owner of the truck on which the material was loaded but with the material not having reached its destination.

On a specific query to the counsel for the petitioner, he submits that the petitioner never accompanied the trucks himself.

Notice of motion is issued, with Mr. B.S. Virk, learned DAG, Haryana, accepting notice on behalf of the respondent State, on the asking of the court, with Mr. Ketan Nandan, Advocate, for Mr. Amit Chuadhary, Advocate, appearing for the complainant in the FIR.

Learned counsel for the complainant reiterates as per the contents of the FIR, to the effect that the scrap material having left the source of origin, it did not reach its destination in the truck of the petitioner.

Upon query to him as regards the contention of the leaned counsel for the petitioner as recorded herein above and his second contention that in fact the signatures of the employees of the company were found on the weighbridge (Dharmkanta), with that weighbridge

stated to be near the destination point itself, he submits that he does not have instructions in that regard.

Learned State counsel submits that as per his instructions so far, as per one driver of the truck of the petitioner, the goods were actually unloaded at the premises of the petitioner, though upon query he submits that the material was actually not recovered from there.

Learned counsel for the petitioner on the other hand submits that any such statement was obviously made under the pressure of the police, in custody, and therefore cannot be accepted to be correct.

He submits that with the goods having gone missing from the trucks of the petitioner, simply because the trucks belong to the petitioner, it does not mean that the petitioner was involved or had knowledge of the case, with there being no allegation that he was anywhere near the trucks at that point.

It is also to be noticed here that the co-accused of the petitioner, Narinder, was admitted to bail by the learned Sessions Judge, mainly on the ground that despite his signatures being present on the receipts at the weighbridge itself, he had lodged a complaint against the management of the company and in fact was offered re-employment, despite the complaint filed against him.

Considering all the aforesaid contentions but with no comment whatsoever made by this court on the merits of the case, the petitioner is directed to join investigation within a week and upon him so joining, in case he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

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

If the arresting officer does not 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.

Adjourned to 05.04.2021.

A gazetted officer is directed to file a reply to the petition.”

Thereafter the petitioner having been allowed to continue on interim bail in view of the fact that learned State counsel had sought time to file a detailed reply to the petition, such reply, dated 08.04.2021, has been filed by the DSP, Palwal, which is ordered to be taken on record.

As per the said reply, 25 trucks were found to be involved in the commission of the offence, with scrap loaded onto them worth Rs.8,42,795/- , which was unloaded, allegedly by the petitioner and his accompish Narender Kumar, at a place other than the destination of the said material, with both, the petitioner and Narender Kumar, having joined inquiry initially but upon the petitioners' statement having been recorded thereafter, Narender Kumar having run away from there.

It was also found that one of the vehicles was found to be registered in the name of the petitioner and that another vehicle had been hired by him from one Vimal Kumar (as per the case of the investigating agency), with the petitioner having got the vehicle unloaded at a scrap go-down.

It is also stated in the affidavit that during investigation the petitioner had disclosed that he had paid the rent for one vehicle in cash, but upon query from the company concerned, it was found that no amount was paid in cash by the company, which is stated to be always making payments on-line (as per the representative of that company).

Eventually, it has been stated in the affidavit that the petitioner is not co-operating with the investigation agency, as he has neither got the material

recovered, nor paid the costs towards that material.

Looking at the entire circumstances of the case, with learned State counsel and learned counsel for the complainant reiterating the contents of the affidavit, I would find no reason to continue with the petition, even though learned counsel for the petitioner submits that all documentary evidence as was required, is already with the police.

It is to be noticed that as per the investigation carried out so far, the petitioner has been found by the investigating agency to be in collusion with his co-accused; with some of his statements found to be false; and therefore, with a large amount of scrap allegedly having been embezzled, this petition is dismissed, with the interim order vacated, but with it made clear that nothing stated in any of the orders passed in this case shall be treated to be an observation by this court on the merits of the case, with the investigation to continue on the basis of the evidence gathered and thereafter the trial (if it comes to that stage), to continue on the basis of evidence led before that court.

It is also to be noticed here that learned counsel for the petitioner, other than submitting that all documentary evidence is available with the investigating agency, has also submitted that he has also not received a copy of the reply filed.

Even if that is so, in any case the entire matter already having been gone into in detail by this court, I see no reason to continue with this petition.

[Learned State counsel has however submitted that the copy of the reply has been sent to learned counsel for the petitioner through email; however, even if counsel for the petitioner has not received a copy thereof, for the reasons

already given hereinabove, the petition has been dismissed.]

September 13, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No