

CRM-M-6607-2020 (O&M)

Through video conference

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

**CRM-M-6607-2020 (O&M).
Decided on: September 30, 2021.**

Rakesh Kumar

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Dinesh Sharma, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.253 dated 27.12.2019, registered under Section 379-B IPC, at Police Station Bilaspur, District Yamuna Nagar.

As per the allegations in the FIR, the petitioner has allegedly snatched the tractor from the complainant and has not returned back to him despite the fact that he has taken some money and the tractor

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trolley was sold to the complainant.

Learned counsel for the petitioner has submitted that in the present case the petitioner is the owner of the tractor and the allegation that he had sold the same by way of affidavit would not be sustainable in law in view of the fact that as per the settled law a vehicle cannot be sold merely on the basis of an affidavit and that the petitioner is still owner of the vehicle and therefore, the allegations of theft are totally baseless. He has further submitted that this Court had granted interim protection to the petitioner on 14.2.2020. He has submitted that in pursuance to the orders passed by this Court whereby the petitioner was granted interim protection, the petitioner has already joined investigation and has fully cooperated with the investigation process but the police is conniving with the complainant and therefore, the State has taken up a stand before this Court that the petitioner is not cooperating in the investigation process. He has submitted that number of times, the petitioner visited the police station and apprised the investigating officer that he is owner of the tractor and the allegations against the petitioner are false. He submitted that be that as it may, the dispute is civil in nature and the police cannot ask for the recovery of the tractor.

On the other hand, learned State counsel, on instructions from SI Ishwar Chander has stated that the petitioner although has joined the investigation but has not cooperated in the investigation process. On being asked from the learned State counsel as to in what respect the petitioner is not cooperating in the investigation process, he has submitted

that the petitioner is not getting the tractor recovered.

I have heard the learned counsel for the parties.

The petitioner is admittedly the owner of the tractor and he has allegedly sold the same to the complainant on the basis of an affidavit. It is settled law that a vehicle cannot be sold merely on the basis of an affidavit and admittedly the petitioner is still the owner of the tractor on the record. The plea taken by the investigating officer that the petitioner is not getting the tractor recovered cannot become a ground for denial of anticipatory bail to the petitioner.

After taking into consideration, the totality of the circumstances, I deem it fit and proper to allow the present petition. Consequently, the present petition is allowed. Interim order dated 14.2.2020 vide which the petitioner was granted interim protection on joining of investigation, is hereby made absolute.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

September 30, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No