

CRM-M-11920-2020

Date of Decision: 15.02.2021

Harsh Partap Singh and another

.....Petitioners

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ishan Gupta, Advocate, for the petitioners.

Mr. Surender Singh, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'pre-arrest bail' upon FIR No. 309 having been registered at Police Station Sirsa City, District Sirsa, on 27.04.2017, alleging therein the commission of offences punishable under Sections 420/120-B/506/419/467/468/471 of the IPC. He further seeks that the order passed by this court on 02.09.2019 in CRM-M-46888-2018 may continue to enure in his favour to the extent of him being admitted to bail.

On 28.01.2021, the following order had been passed in this petition:-

Case heard via video conferencing.

“Vide this application, advancement of the date of hearing in the accompanying petition is sought, with Mr. Gupta, learned counsel for the applicants-petitioners, submitting that despite the fact that the petitioners were admitted to pre-arrest bail by this court on September 02, 2019 upon having filed CRM-M-46888 of 2018 (copy Annexure P-1), the learned trial court has observed that the said concession was only by

way of pre-arrest bail prior to the report under Section 173 of the Cr.P.C. having been submitted, and that that court (Judicial Magistrate Ist Class) had no jurisdiction to grant bail during the pendency of the trial in respect of offences punishable under Sections 467, 468 and 471 of the IPC.

Learned counsel submits that since the next date of hearing before the trial court is January 30, 2021, and the next date of hearing in the accompanying petition before this court is March 25, 2021, filing of this application became necessary.

Notice of motion. Mr. B. S. Virk, learned DAG, Haryana, accepts notice at the asking of the court, with Mr. Bijender Singh Dhankhar, Advocate, appearing for the complainant and seeking time to address arguments on the merits of what has been contended by learned counsel for the applicants-petitioner. Though otherwise I would not see, prima facie at least, any reason to decline the prayer of the petitioners in the accompanying petition itself (subject to what learned State counsel and counsel for the complainant may have to argue on the next date of hearing), with this court already having admitted them to anticipatory bail earlier in respect of the said offences also, the application is allowed and the date of hearing in the accompanying petition is advanced to 04.02.2021.

In the meanwhile, the trial court is directed to adjourn the matter to a date beyond that given by this court, till the next date of hearing, with no coercive steps be taken against the petitioners till then.”

Upon query to learned State counsel, he obviously does not deny that the report under the provisions of Section 173 (2) of the Cr.P.C. has been submitted to the trial court.

He further could not deny the ratio of the judgment of the Supreme Court cited by Mr. Gupta, learned counsel for the petitioner, in Sushila Aggarwal vs. State (NCT of Delhi) [SLP (Criminal) No. 7281-7282 of 2017], decided on 29.01.2020, to the effect that once a person has been admitted to anticipatory bail, that order would continue to enure during the period of the trial (unless the court itself limits the period during which he would remain on bail, for any specific reasons).

Learned counsel appearing for the complainant opposes the petition but obviously he too, upon query, could not deny the ratio of the said judgment.

That being so, without making any comment on the actual merits of the case for or against the petitioner or his co-accused, the petition is allowed with the order passed by this court, admitting the petitioner to anticipatory bail on 02.09.2019 (in CRM-M-46888-2018), to continue to enure in his 'favour' to the extent of him remaining to be admitted to bail, on the same bail and surety bonds already furnished, during the period of the trial; subject of course to him adhering to the conditions imposed vide the said order and him continuing to appear before the trial court on each date that he is summoned to appear there.

February 15, 2021
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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE

Yes
No.