

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

102

CRM-M-11942-2020
Date of decision : 27.07.2021

Ramphal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Puneet Malik, Advocate for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.569 dated 12.09.2018 registered under Sections 420, 201 and 120-B of the Indian Penal Code, 1860 in Police Station Shivaji Nagar, District Gurugram.

The above-said FIR was registered on complaint made by Neeraj Jain, Divisional Manager, National Insurance Company Ltd. to the Commissioner of Police, Gurugram. In the complaint Neeraj Jain alleged that three hit and run cases registered vide FIR No.18 dated 07.01.2017 under Sections 279 and 304A of the IPC in Police Station Civil Lines, Gurugram; FIR No.204 dated 19.05.2017 under Sections 279 and 304A of the IPC in Police Station Bilaspur, Gurugram and FIR No.318 dated 20.04.2016 registered under Sections 279 and 304A of the IPC in Police Station Gurugram City, Gurugram against unknown vehicles/drivers. Subsequently, car No.HR-51AU-8708 had been

planted for fraudulently claiming compensation from the Insurance Company.

Despite registration of the FIR in the year 2018, the matter is still under investigation. Apprehending his arrest, the petitioner has filed present petition for grant of anticipatory bail.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. Police had investigated all the above-said three accident cases and filed charge-sheets accepting the fact that the said accident was caused by Car No.HR-51AU-8701 driven by Deepak. The petitioner had no knowledge about alleged planting of the vehicle and is not involved in the same. Deepak arrayed as accused in two cases never refuted in the claim petition that he was not driver of the vehicle at the time of alleged accident. The petitioner is ready to join the investigation and cooperate with the police. No recovery is to be made and custodial interrogation of the petitioner is not required.

Notice of motion.

Pursuant to supply of advance copy, Mr. Sumit Jain, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel has submitted that during investigation it was found that Yogesh s/o of the applicant/petitioner had involved the vehicle in the cases while colluding with persons mentioned as drivers. Vinod Kumar eye-witness in case FIR No.18 dated 07.01.2017 denied having witnessed the accident. Deepak arrayed as accused in two cases has claimed to have given his driving licence

on two occasions in lieu of Rs.6,000/- and Rs.7,000/- respectively and to have come to know later that his driving licence had been given in accident cases. Deepak has also claimed that he never worked as the driver on the car under the owner-petitioner.

Learned State Counsel sought time and on resumed hearing sent copies of the charge-sheets filed by the police on completion of investigation in all the above-mentioned three cases.

However, learned State Counsel seeks time to file detailed reply.

It may be observed here that several instances of filing of false motor accidents claim cases for claiming compensation from insurance companies in cases of accidental deaths, caused by unknown vehicles, by implicating unrelated vehicle in collusion with owner and driver thereof came to the notice of Hon'ble Supreme Court and this Court as well as other High Courts and numerous criminal cases were registered regarding the same. Without burdening this order with detailed reference to such cases, reference in this regard may be made only to order dated 05.01.2017 passed by Hon'ble Supreme Court in ***SLP (C) 23628 of 2016 titled Safiq Ahmad Vs. ICICI Lambard General Insurance Co. Ltd. and others*** whereby notice was issued to all the High Courts through Registrars so as to ascertain from Motor Accidents Claims Tribunals such doubtful cases which prima facie may require investigation and to prevent filing of such fabricated cases.

In the present case complaint was made by Neeraj Jain, Divisional Manager, National Insurance Company Ltd. to the Commissioner of Police, Gruguram on the basis of which present FIR

was registered on 12.09.2018. It was clearly mentioned in the complaint that in all the three cases mentioned therein FIR regarding causing of death by rash and negligent driving was lodged against unknown vehicles and drivers. During investigation Swift Car No.HR-51AU-8701, owned by the petitioner, was involved as being the offending vehicle in all the three cases and Deepak was claimed to be driver and nominated as accused in two cases while Kishan Singh was claimed to be driver and nominated as accused in one case. Prima facie, involvement of the same vehicle in all the three hit and run cases registered against unknown vehicles makes all the three cases doubtful requiring proper investigation. It appears that charge-sheets were filed in all the three cases without proper investigation. Even after lodging of FIR by the complainant, no proper investigation has been carried out for reaching any logical conclusion and nothing more than recording of statements of Vinod, alleged eye-witness in one case and Deepak, one of the drivers appears to have been done despite expiry of more than two years and ten months particularly when even their statements prima facie disclosed fraudulent planting of car and the drivers in all the three criminal cases for filing of false MACT claim cases against the insurance company.

The police is expected to adopt sensitive approach and take prompt action for expeditious investigation of such cases. Although there is no specific provision in the Cr.P.C. mandatorily specifying the time limits for completion of investigation yet Section 173 (1) of the Cr.P.C. mandates that every investigation under Chapter 12-

INFORMATION TO THE POLICE AND THEIR POWERS TO

INVESTIGATE shall be completed without unnecessary delay. Legislature's concern and mandate for expeditious completion of investigation is manifested by the provisions made in section 167(2) of the Cr.P.C. for grant of default bail in case of non completion of investigation in 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years and 60 days where the investigation relates to any other offence and section 167(5) of the the Cr.P.C. for stopping of investigation in summons cases where investigation is not completed within six months. Law commission in its 239th report recommended that if investigation in respect of serious crimes i.e. cognizable and punishable with imprisonment of 5 years or more is not completed within 6 months, SHO shall submit a report to SP/SSP who shall take necessary action to ensure completion of investigation.

It is now well settled that the fundamental right to life and liberty includes the right of access to justice as well as right to speedy and fair trial and the later also includes fair investigation as held in ***Pooja Pal Vs. UOI : 2016(1) R.C.R.(Criminal) 880***. In ***Shashi Thomas Vs. State and others : (2007) 1 RCR Criminal 695*** proper and fair investigation on the part of the Investigating Officer was held to be the backbone of rule of law. In ***State of A.P. Vs. Sarma Rao and other : (2007) 1 RCR (Criminal) 146*** Hon'ble Supreme Court observed that the investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. Hon'ble Supreme Court observed in ***Zahira Habibullah H. Sheikh and another Vs. State of Gujarat and others : 2004 (2) RCR (Criminal) 836*** that justice may become a victim

if the investigation is not fair.

The complainant or the accused cannot be made to suffer for infrastructural deficiencies or administrative difficulties of the police which, being instrumentality of the State, is duty bound to administer, maintain, uphold and preserve rule of law by its strict adherence to the statutory provisions thereby ensuring protection of fundamental rights of the complainant as well as the accused.

In *SLP (Criminal) No.6951 of 2018 titled as 'Amarnath Chaubey Vs. Union of India and others' decided on 14.12.2020* it was observed by Hon'ble Supreme Court as under:-

“8. The police has a statutory duty to investigate into any crime in accordance with law as provided in the Code of Criminal Procedure. Investigation is the exclusive privilege and prerogative of the police which cannot be interfered with. But if the police does not perform its statutory duty in accordance with law or is remiss in the performance of its duty, the court cannot abdicate its duties on the precocious plea that investigation is the exclusive prerogative of the police. Once the conscience of the court is satisfied, from the materials on record, that the police has not investigated properly or apparently is remiss in the investigation, the court has a bounden constitutional obligation to ensure that the investigation is conducted in accordance with law. If the court gives any directions for that purpose within the contours of the law, it cannot amount to interference with investigation. A fair investigation is, but a necessary concomitant of Articles 14 and 21 of the Constitution of India and this Court has the bounden obligation to ensure adherence by the police.”

The facts and circumstances of the present case warrant intervention by this Court for issuance of appropriate directions in exercise of power under Section 482 of the Cr.P.C. for preventing abuse of process and securing ends of justice.

At this stage, learned Counsel for the petitioner

apprehending not only that this Court may not be inclined to grant anticipatory bail to the petitioner due to his alleged involvement in alleged planting of the vehicle in three hit and run accident cases for fraudulently claiming compensation from National Insurance Company Ltd. but also to ward off issuance of any such directions which may lead to unearthing of some scam/network more adversely impacting the petitioner, has submitted that the petitioner does not want to continue with the present petition which may be dismissed as withdrawn.

The present petition is accordingly dismissed as withdrawn so far as the question of grant of anticipatory bail to the petitioner is concerned.

However, in view of the facts and circumstances noticed above warranting intervention by this Court and also mandating discharge of its Constitutional obligations, the Director General of Police, Haryana is directed to file an affidavit giving information regarding the following aspects:-

- (i) In how many cases complaints regarding false involvement of vehicles, drivers or production of forged registration certificates permits, insurance policies or driving licences are pending for investigation as on 01.08.2021;
- (ii) What steps have been taken for prompt investigation of such cases so as to prevent undue, unreasonable delay in investigation and filing of final reports; and
- (iii) What steps are proposed to be taken in such cases including departmental action against the defaulting officers/officials responsible for undue and unreasonable delay, as has occurred in investigation of the present case.

The affidavit be filed by the Director General of Police, Haryana in the Registry on or before 11.08.2021.

The Commissioner of Police, Gurugram is also directed to personally enquire into the matter for ascertaining the causes of delay occurring in investigation of the present case and take appropriate action for registration of case under Section 166-A of the IPC/initiation of departmental proceedings against the defaulting officer/official, as may be warranted by the facts and circumstances so ascertained and submit interim/final action taken report by way of an affidavit on or before that date.

Copies of the charge-sheets filed by the police in all the three cases along with the documents attached with the same and also of MACT claim petitions filed by claimants/dependants of the victims be requisitioned from the concerned Courts/Tribunals through special messenger before that date.

The Registry is directed to accordingly list the case on 11.08.2021 for further orders in the matter.

A copy of this order be supplied to learned State Counsel for requisite compliance.

27.07.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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