

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201/2)

CRM-M-16218 of 2020 (O&M)
Date of Decision: 16.02.2021

Sandeep Kumar and another

...Petitioners

Versus

State of Punjab

...Respondent

2)

CRM-M-10467 of 2020

Abhishek Kumar @ Abhi Bangar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. K.S. Dhillon, Advocate,
for the petitioners in sr. no.1.
None for the petitioner in sr. no.2.
Mr. S.S. Deol, DAG, Punjab
Mr. Vijay Lath, Advocate, for the complainant.

Amol Rattan Singh, J. (Oral)

Case heard by video conferencing.

On June 01, 2020, the following order had been passed in CRM-M-10467
of 2020:-

“The matter has been taken up by way of Video Conferencing
through Webex application in view of Covid-19 situation as per
instructions issued.

Counsel for the petitioner submits that the co-accused Sandeep
has also been injured in a similar manner as the complainant side and
referred to Annexure P-3 to submit that it was a case of a free fight
regarding the sewa being done in Gurudwara. It is submitted that the cross
case has not been registered as Navdeep is stated to be a serving police
man. It is further submitted that the injuries alleged are on the fingers of

the complainant Sukhwinder Pal and Jasbir Lal.

Mr. Lath, on the other hand, has submitted that there is another case of similar nature against the petitioner who is the main accused in the present case and prays for time to produce the said FIR. Mr. Dhuriwala also prays for time to confirm whether Navdeep is a serving police man, as alleged, or not.

Adjourned to 11.08.2020.

In the meantime, it is directed that the petitioner shall join investigation and in the event of arrest of the petitioner, he shall be released on ad-interim bail subject to the satisfaction of the investigation officer. The petitioner shall join investigation as and when required and shall comply with the conditions laid down in Section 438(2) Cr.P.C.”

Similarly, on June 25, 2020, the following order had been passed in CRM-M-16218 of 2020:-

“Case taken up through video conferencing.

Notice of motion.

Mr. Gaurav Garg Dhuriwala, Addl. AG, Punjab accepts notice on behalf of the respondent-State.

For arguments, adjourned to 11.08.2020.

In the meanwhile subject to the petitioners' joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438 (2) Cr.P.C, in the event of their arrest in FIR No.27 dated 05.02.2020 registered under Sections 323, 324, 326, 506, 148 and 149 of Indian Penal Code, 1860 at Police Station Rama Mandi, Police Commissionerate Jalandhar, District Jalandhar, they shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer.

Today, learned State counsel, on instructions, submits that the petitioners in these two petitions have joined investigation and presently at least their custodial interrogation is not required, with Mr. Lath, learned counsel for the complainant (in both the cases), however submitting that the role of one of the petitioners, Abhishek Kumar @ Abhi Bangar, is different to the other and therefore he does not deserve to be admitted to bail.

Having considered the matter, this court is not making any comment whatsoever on merits either for or against the petitioners. It is to be noticed that once the investigating agency itself states that the custodial interrogation of an accused is not required, then even in terms of a judgment of the Supreme Court in **M.C. Abraham v. State of Maharashtra**, (2003) 2 SCC 649, a court would naturally not be justified in directing arrest of such an accused.

Consequently, on the aforesaid statement of the learned State counsel, these petition have in fact been rendered infructuous and are disposed of as such (even though counsel for the petitioner in CRM-M-10467 of 2020 is not present).

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, they would be given 10 days notice before arrest, duly shown to be served upon them.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of his/her remedy as per law.

201/2)

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A copy of this order be placed on the file of the other connected matter too.

16.02.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No