

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

CRM-M-24024-2021

Date of decision:-12.7.2021

Jamshed

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Baljeet Beniwal, Advocate
for the petitioner.

Mr.Karan Garg, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

Reply filed on behalf of respondent – State is taken on
record.

This petition under Section 438 Cr.P.C. for pre-arrest bail has
been filed by the petitioner – Jamshed, aged 31 years, resident of village
Dhauj, Tehsil & District Faridabad, an accused in FIR No.180 dated

30.4.2021, under Sections 379, 420 IPC (later on Sections 467, 468 and 471 IPC has been added), registered with Police Station Dabua, District Faridabad.

Briefly stated, the facts of the case as per the prosecution story are that a truck bearing registration No.HR38U-9979 containing minerals was checked at Pali Naka by the officials of Mining Department and its driver was asked to produce the relevant bill but the truck driver instead of doing so, threw away the bill and himself sped away the truck. The bill on being seen came out to be pertaining to some other vehicle and not the truck in question. On matter being reported to the police, formal FIR was recorded.

After being nominated in this case, apprehending his arrest, the present petitioner had approached the Court of Sessions at Faridabad seeking grant of pre-arrest bail by filing an application, which was assigned to Additional Sessions Judge, Faridabad. However, his such application was dismissed by the said Court vide detailed order dated 28.5.2021. The petitioner had applied again for grant of pre-arrest bail by filing an application to the Court of Sessions, which application was assigned to Additional Sessions Judge, Faridabad, who dismissed the said second application vide order dated 16.6.2021. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record.

Reply filed on behalf of the State goes to show that petitioner is involved in four more cases, details of which are as under:

- (i) FIR No.140 dated 14.7.2019, under Sections 323, 506, 34 IPC, P.S. Dhauj, District Faridabad.
- (ii) FIR No.148 dated 28.7.2019, under Sections 147, 148, 452, 506, 323 IPC, P.S. Dhauj, District Faridabad.
- (iii) FIR No.30 dated 19.7.2017, under Sections 147, 148, 149, 323, 341, 506, 325 IPC, P.S. Sector-55, Faridabad.
- (iv) FIR No.239 dated 12.7.2014, under Sections 147, 149, 427, 506 IPC, P.S. Sector-55, Faridabad.

It being so, the petitioner/accused comes out to be a habitual criminal. Such type of person having a shaddy past is certainly not entitled to discretionary equitable relief of pre-arrest bail, which is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

Therefore, the custodial interrogation of the petitioner is necessary for complete and effective investigation to find out as to how the bill in question was forged, part played by various persons including the present petitioner. The investigating agency had got the bill, which was thrown away by the truck driver verified from the department of Mines and Geology, Rajasthan and it came out that it does not relate to vehicle bearing registration No.HR38U-9979 but to another vehicle bearing registration No.HR38U-0035. Thus, an attempt was made to play fraud with the Department of Mines and Geology, Haryana. The truck

bearing registration No.HR38U-9979 along with stolen stones is yet to be recovered. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Therefore, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

It may be mentioned here that the petitioner had approached the Court of Sessions twice for grant of anticipatory bail but was unsuccessful both the times. When the second petition under Section 438 Cr.P.C. was filed, it was taken up for hearing by Sh.K.P. Singh, Vacation Judge/Additional Sessions Judge, Faridabad. He in para No.7 of the order passed in CIS No.2370-2021 has observed that '*undoubtedly, second anticipatory bail application is maintainable in case circumstances have changed.*' This observation is erroneous. The Hon'ble Apex Court in recent judgment *G.R. Ananda Babu Versus The State of Tamil Nadu & Anr.* arising out of SLP(Crl.) No.213 of 2021 has observed as under:

As a matter of fact, successive anticipatory bail applications ought

not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No.2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.

A copy of this order be sent to Sh.K.P. Singh, Additional Sessions Judge, Faridabad through Distt. & Sessions Judge, Faridabad to apprise him of the above mentioned Hon'ble Apex Court judgment deprecating the tendency to file successive petitions for pre-arrest bail taking plea of change in circumstances. This judgment be also brought to the notice of other Additional Sessions Judges working in the Sessions Division.

12.7.2021

Brij

Whether reasoned/speaking : Yes/No**Whether reportable : Yes/No****(H.S.MADAAN)
JUDGE**