

CRM-M-26147-2021

Date of Decision: 30.09.2021

Nakul

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.K. Girdhwal, Advocate,
for the petitioner.

Mr. Munish Sharma, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 15.07.2021, the following order had been passed by this court, reproducing there the order earlier passed on 09.07.2021:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.118, dated 1.3.2021, having been registered at Police Station Shivaji Colony, Rohtak, alleging therein the commission of offences punishable under Sections 148/149/307/323/341/379-B/427/506 of the IPC and Section 25 of the Arms Act, 1959.

On 9.7.2021, the following order had been passed by this court (coordinate bench):-

“Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

Learned counsel for the petitioner states that although the petitioner is not named in the FIR, yet he has been falsely implicated in the

case on the basis of supplementary statement made allegedly in the light of CCTV camera footage but the same is absolutely incorrect, as the petitioner was never present at the time of commission of the offence, besides the petitioner does not have any previous criminal record and is ready and willing to join investigation.

Notice of motion.

Mr. Pawan Kumar Longia, learned DAG, Haryana, accepts notice and requests for time to verify whether the petitioner's image has been captured in the CCTV footage at the time of incident.

List on 13.07.2021."

Thereafter, learned State counsel not having received the brief of the case the day before yesterday, hearing was adjourned till today.

Today, Mr. Neeraj Poswal, learned AAG, Haryana, submits, on instructions from SI Vijender Singh, that the petitioners' name has been disclosed by all the co-accused who have been arrested, to be a person who was sitting in the car with one Naveen who is alleged to have shot from a firearm, with the said Naveen also driving a 'Vitara Brezza' car; but as regards the CCTV footage, since the said car was at a distance of about 40- 50 meters from the CCTV camera, the petitioner cannot be strictly identified in the car.

However, he reiterates that Naveen being the person with whom actually the dispute arose with the complainant, and since the petitioner was disclosed by his co-accused to be sitting in that car with him, he does not deserve to be admitted to bail.

Having considered the matter, in view of the fact that the petitioner so far at least has not been identified in the CCTV footage and seemingly at least (again at this stage) no overt role has been strictly attributed to him, without making any comment on the actual merits of the case, the petitioner is directed to join investigation within 7 days and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C. If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.

Adjourned to 23.8.2021.”

On 23.08.2021, learned State counsel had submitted that though the petitioner had joined investigation, he was not cooperating and that he would like to file an affidavit detailing therein as to how he is not cooperating.

No affidavit has been filed on behalf of the respondent-State even thereafter, with today learned State counsel submitting that as per his instructions from PSI Simant from Police Station Shivaji Colony, District Rohtak, the petitioners' custodial interrogation is not required.

That being so, in terms of the ratio of the judgment of the Supreme Court in MC Abraham vs. State of Maharashtra (2003) 2 SCC 649, obviously this court would not direct his arrest and consequently, this

petition has actually been rendered infructuous and is disposed of as such.

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

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

September 30, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.