

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

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CRM-M-27113-2021

Date of Decision : August 02, 2021

VIKASH

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Nisha Malik, Advocate for
Mr. Vikram Lakhlan, Advocate
for the petitioner.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439(2) Cr.P.C. for seeking cancellation of bail granted to respondent No.2, namely, Balbir son of Nanu Ram by learned Additional Sessions Judge, Bhiwani vide order dated 26.12.2020 (Annexure P-2).

The learned counsel for the petitioner has submitted that respondent No.2 has been wrongly granted anticipatory bail by the learned Additional Sessions Judge, Bhiwani in view of the fact that respondent No.2-accused snatched vehicle on 7.12.2020 and the same has not been returned back and since the recovery of the vehicle is yet to be made, the order of grant of anticipatory bail to respondent No.2 was erroneous.

I have heard learned counsel for the petitioner.

The present petition has been filed under Section 439(2) Cr.P.C. and not under Section 482 Cr.P.C. However, still going on the merits of the case, the order passed by the learned Additional Sessions Judge, Bhiwani would show that the present bail application was filed on the ground that the complainant, namely, Vikash had got lodged the FIR by putting up a story with regard to the snatching of the vehicle. As per the allegations, on 7.12.2020 at about 3.00 p.m. accused-Balbir had snatched the vehicle from the complainant while the vehicle was being filled up with diesel at petrol pump near Siwani railway pass situated at Hisar Road, Siwani. However, the stand taken by the accused was that infact on the same day, the complainant alongwith many other persons including one person named Wazir tried to abduct the accused from Pala Ram Market in a vehicle and WhatsApp video was also recorded which was played in the Court at the time of consideration of anticipatory bail. The accused had also suffered injuries and got himself treated at Civil Hospital, Siwani on the said date only and it was only to get away from the said incident that the present FIR was lodged on the basis of a concocted story. Further going into the factual matrix of the case, it can be seen that owner of the vehicle was Pawan Kumar, who is respondent No.3 in the present case, who was registered owner of the said vehicle and entered into an agreement to sell with the accused for Rs.18,50,000/- in which Rs.1,58,000/- was paid on 15.2.2019, Rs.7,80,000/- was agreed to be paid on 17.3.2019 and the remaining amount of Rs.9,12,000/- was agreed to be paid as loan installments with IndusInd Bank where the vehicles stood under HPA agreement. The said agreement was entered

on 15.2.2019 in the presence of Wazir and the possession of the vehicle was handed over to accused-Balbir by the original owner Pawan. This agreement was much before the alleged incident of snatching.

The learned Additional Sessions Judge, Bhiwani while granting anticipatory bail observed that apparently it seems to be a foul act which was played upon by the complainant/petitioner and the witness Wazir as well as brother of the complainant against the accused-Balbir because the complainant could not disprove the agreements to sell dated 15.2.2019 and 29.6.2020. The complainant also could not refute the loan payments made by the present accused to the finance company with regard to the loan amount. However, the mere fact that RC was in the name of the brother of the complainant would not make him the owner of the vehicles entitled to possession when the attending circumstances are peculiar in nature. The learned Additional Sessions Judge, Bhiwani further observed that primarily it is a civil dispute to be adjudicated by the civil Court and the complainant has tried to give criminal colour to the entire transaction with the allegations levelled by him. Therefore, the learned Additional Sessions Judge, Bhiwani granted anticipatory bail to the accused.

The facts and circumstances of the present case show that the petitioner has raised a dispute with regard to the vehicle of which various other documents also have been executed wherein the original owner was Pawan Kumar and he had executed agreement to sell with the accused Balbir and some payment has also been shown to be made and, therefore, no perversity or illegality can be found in the order passed by the learned

Additional Sessions Judge, Bhiwani. So far as the argument raised by the learned counsel for the petitioner that recovery of the vehicle should have been a ground for denial of bail is concerned, this Court does not agree with the submissions made by learned counsel for the petitioner because vide impugned order the learned Additional Sessions Judge, Bhiwani had directed the release of the petitioner on bail on his furnishing personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the arresting officer and it was also directed that he will make himself available for interrogation as and when required. The prayer for recovery of the vehicle cannot become a ground for denial of anticipatory bail because it would be a subject matter of the trial and more so the original owner of the vehicle is stated to be one Pawan Kumar, who had allegedly executed agreement to sell with the accused Balbir, who is stated to have been given some money to him. The matter seems to be of civil nature at this stage and, therefore, the present petition is devoid of any merit and consequently dismissed. No ground is made out for cancellation of bail granted to respondent No.2.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

August 02, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No