

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-28112 of 2021

Date of decision:28.9.2021

Deepak @ Michal

... Petitioner

versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.P.S.Poonia, Advocate,
for the petitioner
Mr.Neeraj Poswal AAG, Haryana
Mr.Shahid Hussain, Advocate,
for the complainant
...

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

On 22.7.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

*By this petition, the petitioner seeks quashing of the
order dated 14.7.2021 (Annexure P-4) passed by the learned
Additional Sessions Judge, Jhajjar, cancelling the concession
of anticipatory bail earlier granted to him vide order an dated
1.6.2021 (Annexure P-3), with a further prayer to let him
continue to remain on anticipatory bail, in the context of FIR
no.104, dated 2.5.2021, registered at Police Station, Line Par,
Bahadurgarh, District Jhajjar, alleging therein the commission*

of offences punishable under Sections 147/149/307/506/120-B of the IPC; Section 61(1) of the Punjab Excise Act, 1914 (Haryana Amendment Act, 2020), and Sections 25/27 of the Arms Act, 1959.

Learned counsel for the petitioner submits that the petitioner having been earlier admitted to anticipatory bail by the learned Additional Sessions Judge, that concession was withdrawn on 14.7.2021 on an application filed by the prosecution for cancellation of the bail.

Notice of motion.

Mr.Neeraj Poswal, learned AAG, Haryana, accepts notice at the asking of the court and submits that as per his instructions, the petitioner did not cooperate in the investigation, inasmuch as some bottles of illicit liquor are still to be recovered from him, as also the car used in the commission of the offence.

Mr.Punia counters by stating that, as already stated in paragraphs 7 and 10 of the petition, in fact the car allegedly used in the commission of the offence (as per the FIR) has already been handed over to the investigating agency; and as regards illicit liquor, the petitioner is wholly denying any such illicit liquor being possessed by him, except to the extent that liquor was legally purchased by him, though not from the complainant but from Bahadurgarh, which is what the

complainant is aggrieved of, as it affects his business; other than the fact that the petitioner/his family made a complaint against the complainant when he was allotted the liquor vend and had installed it on Panchayat land.

Mr.Shahid Hussain appears for the complainant and counters by saying that it was a false complaint made by the petitioner, whose wife is a Sarpanch, with in fact the liquor vend not having been installed on Panchayat land.

Without making any comment on the actual merits of the case and with in any case the last argument of learned counsel for the complainant (i.e. as to whether the liquor vend was installed on the Panchayat land or otherwise), not seeming to be relevant (at this stage at least), qua the immediate occurrence in question, the petitioner is directed to join investigation within 5 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/Ilaqa 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 Ilaqa 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.

A gazetted officer will file a reply to the petition, firstly of course stating as to whether the car that was allegedly used in the commission of the offence has been handed over by the petitioner or not; and further, as to what the background of the matter is, considering the complaint stated to have been made by the present petitioner against the complainant earlier.

Learned counsel for the complainant has also submitted that there is a video recording which he has sent by way of a WhatsApp communication to the Reader of this court.

Naturally, if he wishes to, he would place the same on record before the next date of hearing.

Adjourned to 23.8.2021.

Thereafter a reply has been filed by the DSP, Bahadurgarh, in which it is again stated that the petitioner is not cooperating, inasmuch as he is not getting the liquor that was allegedly purchased by him illegally, recovered.

Learned counsel for the complainant also submits that the wife of the petitioner being the Sarpanch of the village, the petitioner is threatening the complainant time and again.

Having considered the matter, looking at the nature of offences alleged to have been committed, with it is seen that the allegation as regards the commission of an offence punishable under the provisions of Section 307 of the IPC is essentially attributed to one Bholu @ Choti, who is stated

to have come a little later and fired upon the complainant after taking out a pistol while the said Bholu was on his own motorcycle, without making any comment on the actual merits of the case, the petition is allowed and the order dated 22.7.2021 is made absolute on the same terms and conditions.

Naturally, if any genuine threat is found to be made by the petitioner to the complainant or any other such person, the prosecution/complainant would always be at liberty to initiate appropriate proceedings accordingly.

It is also to be noticed that learned counsel for the complainant has also submitted, as has learned counsel for the State, that the petitioner should get the liquor in question recovered.

The occurrence being of the month of May 2021, in my opinion at least getting the liquor recovered may be difficult at this point of time, though of course nothing is stated on the merits of the case at all by this court, which naturally would proceed as per investigation conducted and evidence led before the trial court (if it comes to that stage).

28.9.2021
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No