

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

**CRM-M-27448-2020**

**Date of Decision: 07.12.2021**

**Akash**

**.....Petitioner**

**Vs.**

**State of Haryana**

**.....Respondent**

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

Present: Mr. Gurdev Singh Kuka, Advocate, for the petitioner.  
Mr. Manish Dadwal, A.A.G., Haryana.

\*\*\*\*\*

**AMOL RATTAN SINGH, J. (ORAL)**

By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR no. 437 having been registered at Police Station City, District, Sirsa, on 17.07.2020, alleging therein the commission of offence punishable under the provisions of Sections 392/506 of the IPC and Section 25 of the Arms Act, 1959.

The petitioner was initially ordered to be admitted to interim bail by this court (coordinate Bench), vide an order passed on 11.09.2020, which reads as follows:-

*“Learned counsel contends that the complainant has specifically named the assailants and the name of the petitioner does not figure in the said FIR.*

*Notice of motion for 14.12.2020.*

*Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also*

*abide by the conditions as specified under Section 428 (2) Cr.P.C. ”*

Thereafter, on two dates in succession though learned State counsel had submitted that the petitioner has joined investigation but was not cooperating with the investigating agency inasmuch as he was not getting any recovery effected, on 02.03.2021, this court had directed the petitioner to appear before the investigating officer in the presence of the SP concerned, on 04.03.2021 at 11:00 a.m.

On 18.08.2021 learned counsel for the State appearing at that stage had submitted that the petitioner had not joined investigation, though learned counsel for the petitioner had submitted that he was not being joined in the investigation, with learned State counsel then having submitted that the petitioner was actually not cooperating in the investigation.

Consequently, the petitioner was directed to appear before the SP in his office on 25.08.2021 at 10:00 a.m. for the purpose of investigation, with the SP to summon the investigating officer.

On 09.09.2021, the following order was recorded by this court:-

*“Today, learned State counsel submits, on instructions, that though the petitioner has now joined investigation, he is not cooperating.*

*Adjourned to 02.11.2021.*

*A detailed reply to the petition be filed by the respondent-State.*

*Interim order to continue till that date.”*

Yet, thereafter, on 02.11.2021, learned State counsel had

submitted that in fact, as per the reply received by him, the petitioner had not joined investigation and it was erroneously stated on the previous date that he had joined but was not cooperating.

Consequently, a gazetted officer had been directed to file a reply in response to the petition, also stating therein as to which other case the petitioner was involved in and since when he had been in judicial custody. That direction had been issued on account of the fact that counsel for the petitioner had submitted on 02.11.2021 that the petitioner was in judicial custody in the context of another case registered against him and therefore could not join investigation.

Thus, in essence, on 02.11.2021 counsel for the petitioner had admitted that the petitioner had not joined investigation even by appearing before the SP, despite the order of this court dated 18.08.2021, with his contention being that he could not so join because he was in custody in the context of another case.

On 02.12.2021 an affidavit of the DSP (HQ) Sirsa, was taken on record, stating that the petitioner was arrested only on 31.08.2021 in the context of FIR no. 31 of the same date, registered at Police Station GRP, Sirsa, and therefore with him obviously not hampered to join investigation prior to that date (pursuant to the order of this court dated 18.08.2021).

It had further been stated in the DSPs' affidavit that the petitioner had been in custody in the context of other cases also only w.e.f. 31.08.2021 and as regards only one FIR, i.e. no. 369, dated 01.11.2019, he had already been admitted to bail on 14.01.2020.

In effect, the petitioner was actually not in custody from

18.08.2021 to 25.08.2021, with the latter date being the one on which he was to appear before the SP at 10:00 a.m., pursuant to the order of this court dated 18.08.2021.

Counsel for the petitioner not having come present on the last date as the turn of the case came up after 04:00 p.m., today, he submits that the petitioner be given one more opportunity to join investigation.

Having considered the matter, firstly of course it is to be noticed that the petitioner is already in custody in the context of different cases registered against him and admitting him to an interim anticipatory bail could actually be a purposeless exercise, even though it is a different FIR in the context of which he is seeking to be so admitted to bail.

Other than that, with the petitioner time and again not having joined investigation, I see no reason to entertain this petition any further, which is consequently dismissed, with the interim order dated 11.09.2020 vacated.

However, it is made clear that no observation made by this court either in this order or any previous order, would be taken into consideration to determine the actual guilt or innocence of the petitioner, all such observations having been made only in the context of a petition filed under the provisions of Section 438 of the Cr.P.C.; and naturally, his guilt/innocence would be determined on the basis of evidence gathered/led.

**December 07, 2021**

nitin

Whether speaking/reasoned

Whether Reportable

**(AMOL RATTAN SINGH)**

**JUDGE**

Yes/No

Yes/No.