

**CRM-M nos.28302; 30449 of 2020; 32720 and
CRM-M-21001 of 2021**

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

102/3

**CRM-M-28302 of 2020
Date of Decision:15.12.2021**

Komal Kalra and others

..... Petitioners

Versus

State of Punjab

..... Respondent

2)

CRM-M-30449 of 2020

Tariq Khan

..... Petitioner

Versus

State of Punjab

..... Respondent

3)

CRM-M-21001 of 2021

Athar Khan

..... Petitioner

Versus

State of Punjab

..... Respondent

4)

CRM-M-32720 of 2020 (O&M)

Savinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

**Present: Mr. R. S. Cheema, Senior Advocate, with
Mr. Ishan Khetarpal, Advocate,
for the petitioners in sr. no.1.**

Mr. Mayur Karkra, Advocate, for
Mr. Aman Pal, Advocate,
for the petitioner in sr. no.3.

Mr. Rana Harjasdeep Singh, DAG, Punjab

Mr. Rajiv Malhotra, Advocate,
for the complainant.

Mr. S.P.Jain, Addl. Solicitor General, with
Mr. Sanjay Vashisth, Sr. Panel Counsel,
for the respondent-ED.

AMOL RATTAN SINGH, J. (ORAL)

**CRM-M nos.28302; 30449 of 2020; and
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Vide these petitions, the petitioners seek the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.231, dated 19.08.2020, having been registered at Police Station Salem Tabri, District Ludhiana, alleging therein the commission of offences punishable under Sections 420 of the IPC as also 63 and 64 of the Copyright Act, 1957 (with Sections 120-B, 485, 486, 465, 467, 468 and 471 of the IPC added later).

Upon the petitioners having been admitted to interim bail vide different orders dated 17.09.2020, 10.11.2020 and 27.08.2021, passed in these petitions, they are all stated to have joined investigation and as per the instructions of the learned Senior Deputy Advocate General who had been appearing on all dates prior to today, their custodial interrogation was stated to be not required.

However, the matters had still not been disposed of because vide an affidavit dated 26.08.2021, the ACP (North) Ludhiana, had specifically stated that

their custodial interrogation was required and consequently a gazetted officer had been asked to file another affidavit in view of the instructions received by learned State counsel.

Today another affidavit has been filed by the ACP (North), dated 10.12.2021, which is ordered to be taken on record.

It has been very specifically stated in paragraph 4 of the affidavit that though vide the affidavit earlier filed, it had been stated that the custodial interrogation of the petitioners was required, yet, the instructions given to the learned Senior Deputy Advocate General subsequently to the effect that such custodial interrogation was not required, were correct instructions and in fact with the petitioners having joined investigation, their custodial interrogation is not required.

It is to be further observed by this court that as noticed in previous orders, learned counsel for the complainant had been asked to distinguish the ratio of the judgment of the Supreme Court in **M.C. Abraham v. State of Maharashtra** (2003) 2 SCC 649, wherein it is held that once the investigating agency itself does not require the custodial interrogation of an accused, even a Constitutional court would not direct the arrest of such accused.

Today again, while opposing these petitions, he submits that with this court already having asked the Director, Bureau of Investigation, Punjab, as to whether the matter can be investigated by the said Bureau and the Director having filed an affidavit affirming that query of this court, this court would not make the interim orders absolute, despite the latest affidavit of the ACP (North).

Having considered that argument, it is not denied that presently at

least the investigation is still with the Police Commissionerate, Ludhiana, and with that investigating agency itself not requiring the custodial interrogation of the petitioners, there would be no reason at all for this court to not make the interim orders passed earlier absolute.

However, if investigation is transferred to the Bureau of Investigation/any other agency and that agency does require the custodial interrogation of the petitioners/any accused, that issue would be considered at the appropriate time.

In view of the above, without making any comment on the actual merits of the case, these petitions are allowed, with the orders admitting the petitioners to interim bail upon them joining investigation, made absolute on the same terms and conditions, subject of course to the rider hereinabove, that in case any investigating agency subsequently requires their custodial interrogation, obviously appropriate proceedings will be initiated by such agency.

CRM-M-32720 of 2020 (O&M)

This is a petition filed by the complainant in the FIR, seeking a fair and impartial investigation in the FIR in question.

Pursuant to earlier orders passed by this court, today an affidavit has been filed by Mr. Sanjay Vashisth, learned Sr. Panel Counsel, Union of India, executed by the Assistant Director, Directorate of Enforcement, Government of India, dated 13.12.2021, which is ordered to be taken on record.

Mr. Vashisth points to paragraph 3 of the said affidavit, which reiterates what he had submitted on the last date of hearing, to the effect that despite letters written to the Commission of Police, Ludhiana, and the SHO, Police

Station Salem Tabri, Ludhiana, seeking relevant details and documents in the context of the FIR in question, no reply has still been received.

Mr. Rana Harjasdeep Singh, learned DAG, Punjab, submits that since the arguing counsel (Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab) is on leave today, consequently he would be seeking time to file a response to the aforesaid query of this court.

Adjourned to 23.12.2021.

It is made clear that if an affidavit is not filed by the Commissioner of Police, Ludhiana, as to why the communication from the Directorate of Enforcement, Government of India, has not been replied to by him (Commissioner of Police or the SHO, Police Station Salem Tabri), the Commissioner of Police shall remain personally present in court on that date of hearing itself.

Copies of the affidavits filed by the ACP (North), Ludhiana, and the Directorate of Enforcement, be given to learned counsel for the parties respectively.

To be shown in the urgent motion list.

CRM-42537 of 2021

Vide this application, the three applicants therein, i.e. Komal Kalra, Kapil and Pankaj Kalra, seek to be impleaded as respondents no.7 to 9 in the accompanying petition.

Notice in the application.

Mr. Rajiv Malhotra accepts notice at the asking of the court and very fairly does not oppose the application, which is consequently allowed, with the aforesaid persons ordered to be impleaded as respondents no.7 to 9 in the

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accompanying petition, with the amended memo of parties ordered to be taken on record substituting the original memo of parties.

A copy of this order be also placed on the file of the other connected matters too.

December 15, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes