

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

CRM-M-42400-2021 (O&M)
Date of Decision : October 08, 2021

Kamaljeet

.. Petitioner

Versus

State of Haryana

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dinesh Sharma, Advocate, for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.
(keeping in view the advance copy given).

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail in respect of FIR No.29 dated 05.02.2021 registered under Sections 420 and 34 of the Indian Penal Code, 1860 at Police Station Partap Nagar, District Yamuna Nagar, Haryana.

Learned counsel for the petitioner submits that the petitioner has wrongly been involved in the present case and he has nothing to do with the allegations with regard to the tractor, which is in the complainant's name and is stated to be missing. Learned counsel for the petitioner further submits that the co-accused namely Ravish Kumar has already been granted the benefit of anticipatory bail in CRM-M-16616-2021 and therefore, on the ground of parity, the petitioner be also extended the said benefit.

Notice of motion.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State submits that in the present case, the petitioner is the master mind and the tractor of the complainant is yet to be recovered and for the said recovery, the custodial interrogation of the petitioner is necessary. Learned counsel for the respondent-State further submits that even after the complaint was filed by the complainant, explanation was sought from the petitioner but he is not coming out with the truth, which shows that in case, the custodial interrogation of the petitioner is not granted, the petitioner will not disclose the truth behind the allegations so as to recover the property belonging to the complainant i.e. tractor in question.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, the property i.e. tractor is yet to be recovered. Though, the petitioner was associated by the police after receipt of the complaint prior to the filing of the FIR but according to the police, the petitioner has not cooperated and the property is yet to be recovered, hence, custodial interrogation of the petitioner is necessary.

Further, this is not a case, where allowing the petitioner to join into investigation and co-operate will achieve purpose of investigation. Even the Hon'ble Supreme Court of India in **State represented by the C.B.I. Vs. Anil Sharma, 1997(4) R.C.R.(Criminal) 268**, has held that in case where serious allegations have been alleged and the truth needs to be

elicited from the accused, the same can only be done through the custodial interrogation as compared to questioning a suspect, who is already on anticipatory bail.

As far as the averment that the co-accused namely Ravish Kumar has been granted the benefit of anticipatory bail, it can be noticed from the order passed by a Coordinate Bench of this Court granting the co-accused the benefit of anticipatory bail that the main allegations are against the petitioner and the only allegation against Ravish Kumar was of introducing the petitioner to the complainant and therefore, the parity being claimed by the petitioner with the co-accused is misplaced in the facts and circumstances of the present case.

No ground is made out to grant the benefit of anticipatory bail to the petitioner.

Dismissed.

It is made clear that nothing observed herein shall be construed to be an expression of any opinion on the merits of the case.

CRM-33880-2021

Application stands disposed of keeping in view the order passed in the main petition.

October 08, 2021*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No