

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

201-1

CRM-M-30407 of 2019
Date of decision :04.10.2021

Vijay

...Petitioner

Versus

State of Haryana

...Respondent

2.

CRM-M-35167-2019

Rohtash

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amit Kumar Jain, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana for the respondent-State.
Mr. Mandeep Singh Kundu, Advocate for the complainant.

SUVIR SEHGAL, J.

Heard through video conferencing.

This order shall dispose of CRM-M-30407-2019 titled as **Vijay**
versus State of Haryana and CRM-M-35167-2019 titled as **Rohtash**
versus State of Haryana, as both the petitioners are accused in the same
FIR and have approached this Court by way of separate petitions seeking
grant of anticipatory bail. For the sake of convenience, facts are being taken
from CRM-M-30407-2019.

Vide the instant petition filed under Section 438 of the Code of Criminal Procedure, 1973, the petitioner is seeking grant of anticipatory bail in case FIR No.235 dated 05.06.2019, registered for offence under Section 306, 34 IPC at Police Station Safidon, District Jind.

As per the case of the prosecution, FIR has been registered on the complaint of Smt. Bala wife of late Dalbir on the allegation that her father-in-law, Ram Phan, had purchased an old JCB machine on 17.03.2018 by paying Rs.5,26,000/- in cash on the assurance that he will re-pay the loan amount of Rs.16,17,000/-. He gave two blank cheques as security to Vijay from whom the JCB machine was purchased who promised to hand over the original documents of the vehicle but he did not do so. Her husband paid Rs.2.18 lac in cash to Vijay on different dates between March and June, 2018 but the documents were not delivered and Rohtash came to their house, introduced himself as the original owner of the JCB machine and threatened to take it back in case the balance payment is not made. On account of the pressure exerted by the accused, her husband went into a depression. He left his home on 10.07.2018 and committed suicide on 11.07.2018. The accused then started pressurizing her father-in-law, Ram Phan, that they will present the cheques in the bank and get him implicated in a false case of cheating, as a result her father-in-law had a brain hemorrhage, went into a coma and is undergoing treatment at PGIMS, Rohtak.

After hearing the parties, this Court granted interim protection to the petitioner vide order dated 19.07.2019, which is reproduced as under:-

“Learned counsel for the petitioner points to the agreement Annexure P-1, shown to be entered into between Rohtash and Ramphal, i.e. the father of the deceased, on 17.04.2018, in which it is stated that a JCB machine was agreed to be sold by Rohtash to Ramphal for a sum of Rs.21,43,200/-, of which Rs.16,17,000/- was to be paid by way

of 35 installments on the 30th day of every month to a particular finance company.

He then refers to the FIR in which it is stated that Rs.46,200/- were paid on 28.03.2018 and 04.04.2018 (i.e. before the date of agreement) and another Rs.46,200/- paid on 04.05.2018, and then Rs.30,000/- on 04.06.2018.

Hence, he submits that the installments being paid were as per the agreement reached between the parties and consequently, if the father of the deceased was not able to fulfill the agreement, the petitioner cannot be held responsible for the son committing suicide.

Without making any comment on the actual merits of the aforesaid contention, however since a prima facie case at this stage has been made out in favour of the petitioner, let notice of motion be issued to the respondent, returnable on 07.08.2019.

In the meanwhile, upon the petitioner joining investigation, in case he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/IlaqaMagistrate. He shall, further, abide by all the conditions stipulated in Section 438(2) Cr.P.C.

If the arresting officer does not 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.”

A perusal of the interim orders passed by this Court from January, 2020 onwards show that the petitioner is playing hide and seek with the Court as well as the investigating agency. Despite interim protection and direction to join, either the petitioner did not join the investigation and when he appeared before the investigating agency, he did not cooperate. Various opportunities have been given to him over the last more than 1½ years.

Status report by way of affidavit of Deputy Superintendent of Police, Safidon, District Jind dated 30.09.2019 has been filed in compliance of order dated 12.08.2021 passed by this Court, the relevant extract of which is as under:-

“6. That the petitioner Vijay and co-accused -Rohtash (petitioner in CRM-M-35167-2019) were joined the investigation of this case on 17.01.2020 and 19.03.2020, but they had not cooperated (with) the investigating officer in the investigation of the case. Recovery of papers of JCB machine is to be made from them. Now

investigation of this case is being conducted by ASI Ranbir Singh of Police Station Safidon.

7. That (in) so far as compliance of order dated 12.08.2021 passed by this Hon'ble Court vide which petitioners were directed to rejoin the investigation of the case on 23.08.2021 is concerned, it is submitted that the petitioner Vijay and Co-accused -Rohtash (petitioner in CRM-M-35167-2019) have not joined the investigation of the case on the directed date and time i.e. 23.08.2021, at 11.00 am and by doing so they have totally defied the directions issued by the Hon'ble Court.

Hence, the interim protection granted to the petitioner is required to be vacated"

Furthermore, during the course of argument, it has been pointed out by the counsel for the complainant that accused-Vijay has been involved in FIR No.105 dated 04.04.2021 registered for offence under Section 34, 376 (2) (a), 506 IPC at Police Station City Safidon, District Jind. The said accused has misused the concession of bail and, therefore, the interim protection granted to him cannot be extended.

Accordingly, the petition is ordered to be dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression on the merits of the case.

04.10.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No