

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

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**CRM-M-36039-2020
Date of decision: 25.08.2021**

DHARMINDER SINGH

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent No.1-State.

Mr. Nirmaljeet Singh Sidhu, Advocate
for respondent No.2.

Mr. N.S. Sodhi, Advocate
for respondent No.3.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

1. The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 138 dated 04.11.2019 registered under Sections 420 and 506 of the Indian Penal Code, 1860 at Police Station Phul, District Bathinda.

2. The above said FIR was registered on statement of Hazoor Singh. In his statement complainant-Hazoor Singh alleged that on 01.11.2019 at about 9/10:00 A.M. he on his tractor bearing registration No.PB-03-Y-3984 went to Preet Filling Station (Petrol Pump) situated at village Bhai Rupa near Government Girls High School for filling

diesel in his tractor. The capacity of diesel tank of his tractor was 56 liters. The tractor already had 10 liters of diesel in the tank. He asked the employee present at the Petrol Pump to fill the tank. The employee after filling the tank handed over the receipt of 61 liters diesel to him on which he asked the employee that capacity of tank of his tractor was only 56 liters then how he (the employee) could have filled 61 liters of diesel in his tractor. Thereupon the employee with the connivance of the owner of the Petrol Pump had a fight with him.

3. Apprehending his arrest, the petitioner has filed the present petition for grant of anticipatory bail.

4. Vide order dated 24.11.2020, the petitioner was granted interim anticipatory bail by this Court with direction to join the investigation.

5. The petition has been opposed by the State in terms of reply filed by way of affidavit of Jasvir Singh, PPS, Deputy Superintendent of Police, Sub-Division Phul, District Bathinda.

6. Vide order dated 24.11.2020 diesel was ordered to be got filled in the tractor from the Petrol Pump in question with video recording thereof to verify the capacity of the tank of the tractor. In compliance therewith the District Food and Supply Controller, Bathinda submitted report with video clip showing that 58.59 liters of diesel could be filled in the tank of the tractor.

7. Vide orders dated 05.11.2020 and 13.01.2021 the complainant and owner of the Petrol Pump were impleaded as respondents No. 2 and 3.

8. The matter was referred to the Mediation and Conciliation

Centre of this Court vide order dated 02.03.2021 for mediation for attempting amicable settlement between the parties but the mediation failed and no settlement could be arrived at between the parties.

9. I have heard arguments addressed by Mr. J.K. Singla, learned Counsel for the petitioner, Mr. Rana Harjasdeep Singh, learned State Counsel for respondent No.1-State, Mr. Nirmaljeet Singh Sidhu, learned Counsel for respondent No.2 and Mr. N.S. Sodhi, learned Counsel for respondent No.3 and gone through the relevant record.

10. Learned Counsel for the petitioner has argued that the petitioner, who was employed on salary of Rs.4,000/- per month on Preet Filling Station situated at village Bhai Rupa Tehsil and District Bhatinda, has been falsely implicated in the present case. The petitioner was not named in the FIR which was registered against the owner but later he has been falsely implicated with intention to save the owner. From the averments in the FIR no offence is made out against the petitioner. The dispute is purely of civil nature. The petitioner is not the beneficiary of excess payment. In compliance with order dated 24.11.2020, the petitioner has joined the investigation. Custodial interrogation of the petitioner is not necessary in the case. The petitioner will not abscond and will not tamper with the evidence. Therefore, the petitioner may be granted anticipatory bail.

11. On the other hand, learned State Counsel has argued that during the investigation conducted accused Uday Karan Singh, the owner of the Petrol Pump-Preet Filling Station was found innocent. There is incriminating evidence against the petitioner who filled the diesel in the tractor of the complainant and received excess amount

from the complainant. Custodial interrogation of the petitioner is necessary for proper and effective investigation and recovery of the excess amount charged.

12. Learned Counsel for the complainant has argued that Uday Karan Singh, the owner of the Petrol Pump-Preet Filling Station has been wrongly exonerated by the police. There is conclusive incriminating evidence against the owner of the Petrol Pump-Preet Filling Station and the petitioner who filled diesel in the tractor of the complainant and received excess amount from the complainant. Custodial interrogation of the petitioner is necessary for proper and effective investigation and recovery of the excess amount charged. Therefore, the petition may be dismissed.

13. Learned Counsel for respondent No.3 owner of the Petrol Pump has argued that Uday Karan Singh, the owner of the Petrol Pump-Preet Filling Station was not involved in commission of the crime and has been rightly exonerated by the police. He may be granted protection against coercive action in the case.

14. Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner and the fact that recovery if any has to be made from the owner of the Petrol Pump as the sale proceeds went to him and, therefore, custodial interrogation of the petitioner is not necessary and there is no material to justify the apprehension of the petitioner fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves grant of anticipatory bail.

15. In view of the above, the petition is allowed and order dated 24.11.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Code of Criminal Procedure, 1973, failing which the protection of anticipatory bail order shall not be available to him.

16. So far as respondent No.3 is concerned, no final relief of anticipatory bail or protection against coercive action can be granted to him on the present petition as he has got independent alternative remedy of filing the petition for grant of anticipatory bail. Therefore, interim order dated 02.03.2021 passed by this Court for facilitating the mediation between the parties is vacated.

25.08.2021
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(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No