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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-252-2020
Date of Decision: 16.03.2022

Jai Singh

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Suvir Sidhu, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

Status report has been filed by way of affidavit of Deputy Superintendent of Police, GRP, Hisar which is taken on record.

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.47 dated 29.05.2019, under Sections 379/34 of IPC, registered at Police Station GRP, Hisar, District GRP Ambala Cantt.

As per the FIR which was lodged by one Mohinder Kumar by stating that when he boarded Bandra Express Train alongwith his family on 27.05.2019 for coming at Hisar from Bandra and when the train reached Hisar Junction, then the complainant collected the goods for alighting near the gate alongwith three suitcases and two bags and near the gate there were

already 7-8 persons standing and out of these 7-8 persons one engaged him in talking and rest of the unknown persons opened three suitcases by cutting it with a blade and stolen away the goods contained in it which contained around 35 tolas gold including two mangal sutar, two gold ladies bangles six tolas, one ear ring one tola, two rings gents two tolas, five pair of topus rings four tolas, one gents kada three tolas, three lacket set four tolas, one nose pin three tolas and two pairs of anklets twenty five tolas, 15 silver coins and three silver notes, Rs. 20,000/- and other miscellaneous items and closed the chain as it is.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and this Court had also granted interim protection to the petitioner vide order dated 04.08.2021 subject to joining of his investigation and to cooperate with the investigation process and to comply with the conditions contained in Section 438(2) Cr.P.C and thereafter the petitioner had joined investigation. He further submitted that the petitioner was earlier involved in 12 cases and vide Annexure P-2 he has specifically stated that he has been acquitted in all the cases and that the present case has been planted upon the petitioner.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana while referring to the status report filed by the State has submitted that although the petitioner has joined investigation in pursuance of the orders passed by this Court but he has not cooperated at all with the investigation process and has not disclosed as to where the gold articles and the cash have been kept and also has not answered to the *modus operandi* adopted by the petitioner in the present case and, therefore, the

submitted that firstly the petitioner has actively and deliberately concealed material facts from this Court by stating that he has been acquitted in the cases in which he was earlier involved whereas while referring to para No.4 of the status report, he submitted that there is one FIR No.69 of the year 2017, under Sections 454 and 380 IPC, registered at Police Station Malsisar, District Jhunjhnu, Rajasthan in which the petitioner is still under trial and it appears that the nature of offence was also same as that of the present case. He further submitted that the allegations in the present case are so serious that the complainant had alighted from the train and one person had engaged him in talking and the other persons had cut the suitcase with blade and stolen the large number of gold articles and cash and, therefore, the petitioner is not entitled for the grant of anticipatory bail. He further submitted that even after the Court had granted interim protection to the petitioner, he has not cooperated at all with the investigation process. He further submitted that the anticipatory bail filed by other co-accused in CRM-M-74968-2019 namely Sunil has been dismissed by this Court on 28.08.2021 and some of the other co-accused have also filed anticipatory bail application but in which they also joined investigation but they are not cooperating at all. He further submitted that since it is a case where gang of people are committing theft at Railway Station and other places and the other accused are also involved in large number of cases, it will be necessary to have a custodial interrogation of the petitioner for the purpose of elicitation of truth.

I have heard the learned counsel for the parties.

Although in pursuance of the orders passed by this Court the

petitioner joined investigation but as per the learned State counsel, he has

not cooperated with the investigation process. It has been further submitted by the learned State counsel that not only the present petitioner but the other co-accused also joined the investigation but did not cooperate with the investigation process and anticipatory bail of one of the co-accused has been dismissed by this Court. The allegations in the present case are undoubtedly serious in nature and the gravity and magnitude of the offence is also very high. Apart from the same, the petitioner has filed a specific affidavit before this Court vide Annexure P-4 that he was involved in other cases, list of which has been mentioned in Annexure P-3 (colly) at page 33 of paper book and that he has been acquitted in all those cases. A perusal of Annexure P-3 at page 33 of paper book would show that at serial No. 11 FIR No.69, registered at Police Station Jhunjunu, Rajasthan has been mentioned and the petitioner has specifically stated by way of an affidavit vide Annexure P-4 that all the cases mentioned in Annexure P-3(colly), the petitioner has been acquitted whereas the affidavit filed by the State in para No.4 it has been mentioned that in the aforesaid FIR No.69 the petitioner is still under trial. On a query being asked from the learned counsel for the petitioner with regard to the same during the course of arguments, he submitted that it appears to be a case of mistake. Such kind of explanation is not acceptable. It is a case where the petitioner himself filed a specific affidavit vide Annexure P-4 which would therefore become a false affidavit on the face of it. Furthermore, it is a specific stand taken by the State that the petitioner has not cooperated with the investigation process despite the interim protection granted by this Court would also disentitle the petitioner for grant of anticipatory bail. Apart from this, a perusal of Annexure P-3 at

anticipatory bail petition has been dismissed by this Court namely Sunil was involved in as many as 21 cases. The argument raised by the learned State counsel that it is a gang which is operating and indulged in such kind of activities and for the purpose of elicitation the truth, custodial interrogation of the petitioner is required thus carry weight. Therefore, this Court is of the considered view that it is not a fit case for grant of anticipatory bail to the petitioner and the present petition being devoid of any merit is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

16.03.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No