

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-947-2022
Date of Decision: 31.05.2022

(I)
Rajvinder @ Anu

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CRM-M-4471-2022

(II)
Arun Kumar

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R.K.Handa, Advocate and
Mr. Dharam Bir Bhargav, Advocate for the petitioners.

Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

Mr. P.S. Ahluwalia, Advocate, for the complainant.

JASGURPREET SINGH PURI, J(Oral)

Both the petitions are taken up together since both the petitions have been filed seeking grant of anticipatory bail and they arise out of the same FIR and, therefore, are being taken up together with the consent of the learned counsel for the parties for final disposal.

Both the petitions have been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioners

in FIR No.398 dated 26.11.2021, under Sections 307, 120-B IPC and Section 25,54,59 of Arms Act, registered at Police Station Bilaspur, District Yanunanagar.

The present FIR was lodged on the basis of complaint made by the complainant namely Kuldeep Singh son of Hukam Singh, resident of Village Bhabnoli, Police Station Bilaspur, District Yanunanagar by stating that he is working as Field Officer in Esteen Company, Ranjitpur. About 15 days ago, he received a WhatsApp call from the mobile number of Anu Mahuakheri (Petitioner in CRM-M-947-2022) and he said that he wants to meet him. He met him at the bridge near Sadhaura river and said that he will do the work of Gorbani village without any realty/royalty and the complainant told him not to do so. Thereafter, on 25.11.2021 at about 1.00 P.M he received a call on his mobile number from the mobile number of aforesaid Rajvinder @ Anu (Petitioner in CRM-M-947-2022) who said that 'don't try to fly high, I will get you down within 1 hour'. Thereafter, on 26.11.2021 the complainant and one Baldev son of Chaman Lal and Arvind son of Hukam Singh at about 7.00 P.M. were sitting in their office at Shiv Kripa Screening Plant and after sometime, Arun (Petitioner in CRM-M-4471-2022) came to their plant and he called Baldev outside and asked that why Kuldeep is not picking up his call and he asked Baldev to bring Kuldeep with him and said that they will sit somewhere. Baldev refused to do so and Arun (Petitioner in CRM-M-4471-2022) went from there. Thereafter, Baldev told all this to the complainant after coming inside the office and at about 7.30 P.M., three persons having muffled faces with handkerchief came and went after wandering outside the office. After this, two boys came. Baldev was standing outside the office and on seeing them,

the complainant also came outside the office. Out of them one boy who was wearing a white coloured sweatshirt with USA scribed on it, took out a weapon from the pocket of his pant (trouser) and with an intention to kill, fired two shots towards him and Baldev. The complainant and Baldev couched down and ran towards Crusher. Both these boys ran behind them, then complainant and Baldev fell in the ditch. Both those boys fired upon him and Baldev with an intention to kill them and thereafter fled away from the spot alongwith their weapons in a Baleno Car No. PB-HQ-8603 and black colour Scorpio. It has been further stated in the FIR that Rajvinder @ Anu (petitioner in CRM-M-947-2022) alongwith his two other unknown companions and in connivance with Arun Kumar (Petitioner in CRM-M-4471-2022) due to his enmity for not running his illegal mining had fired upon him and Baldev with an intention to kill them. While running away, due to falling in the ditch, both the knees of the complainant and legs and arms of Baldev were injured and it has been further stated in the FIR that the complainant can identify these boys upon seeing them.

Mr. R.K. Handa, Advocate with Mr. D.B. Bhargav, Advocate, appearing on behalf of the petitioners in both the cases submitted that the present FIR was planted upon the petitioners. He further submitted that there was no firearm injury caused to anybody and as per the prosecution story, the injuries to knees and arms of complainant and other person namely Baldev were caused only as they fell in the ditch and not because of the injuries caused by the petitioners. He further submitted that the petitioner Rajvinder @ Anu was granted interim bail by this Court on 11.01.2022 and the other petitioner namely Arun Kumar was granted interim bail by this Court on 03.02.2022 and in pursuance of the aforesaid orders, both the

petitioners had joined investigation and therefore, has prayed that the interim bail granted to the petitioners may be confirmed. He further submitted that so far as the pendency of the other cases against the petitioner namely Rajvinder @ Anu are concerned, in those cases the petitioner has been falsely implicated by the police and in some of the cases he has been acquitted and in some of the cases, he was granted bail and, therefore, the aforesaid criminal cases against the petitioner Rajvinder @ Anu cannot become a ground for denial of bail in the present case.

On the other hand, Mr, Ranvir Singh Arya, learned Additional Advocate General, Haryana has submitted that in both the aforesaid cases separate affidavits have been filed by the State. He further submitted that the facts of both the cases may be considered separately as follows:-

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While referring the affidavit filed by the State, he submitted that the petitioner Rajvinder @ Anu was granted interim anticipatory bail by this Court on 11.01.2022 and it is more than 4 months that despite the orders passed by this Court directing him to join investigation, he has not joined investigation and has referred to para No.8 of the affidavit wherein it has been specifically stated that the petitioner Rajvinder @ Anu did not join investigation of the case so far. He further submitted that after the passing of the interim orders by this Court the petitioner was called number of times by the I.O not only telephonically but also by way of written notices. During course of arguments, the learned Additional Advocate General, Haryana has supplied vernacular of three such notices dated 19.01.2022, 14.03.2022 and 09.04.2022 wherein specific notices were issued to the petitioner to join the

investigation and the same were also received by the father of the petitioner but petitioner still did not join the investigation at all and, therefore, has violated the directions issued by this Court. The vernacular of all these three notices aforesaid are hereby taken on record as Mark-X. He further submitted that the petitioner does not deserve the concession of anticipatory bail in view of the fact that he did not comply with the directions issued by this Court and he did not join investigation despite the fact that 4 ½ months have elapsed. He further submitted that in fact the petitioner was involved in 7 other cases and he has referred to the details of those cases which have been reproduced in para No. 13 of the affidavit. Para No.13 of the affidavit is reproduced as under:

“13. That in addition to present case, following cases have also been found registered against petitioner.

- i. FIR No.172, dt. 13-05-2018, u/s 148, 149, 302 IPC, P.S. Naraingarh (Ambala).*
- ii. FIR No.329, dt. 07-12-2015, u/s 504, 506, 34 IPC, P.S. Naraingarh (Ambala).*
- iii. FIR No.201, dt. 15-06-2017, u/s HGPE Act, , P.S. Naraingarh (Ambala).*
- iv. FIR No.287, dt. 04-10-2013, u/s 148, 149, 302 IPC, P.S. Naraingarh (Ambala).*
- v. FIR No.112, dt. 12-07-2021, u/s 307, 34, 120-B IPC, 25 of Arms Act, P.S. Raipur Rani (Panchkula).*
- vi. FIR No.70, dt. 14-04-2022, u/s 25 Arms Act, P.S. Raipur Rani (Panchkula).*
- vii. FIR No.30, dt. 06-02-2022, u/s 285, 307, 323, 34 IPC, 25 of Arms Act, P.S. Raipur Rani (Panchkula).*

He submitted that out of these cases although the petitioner has been acquitted in some of the cases but so far as the remaining cases are

concerned, the same are pending and it appears that the petitioner has not joined investigation in view of the pendency of these cases against him. He further submitted that so far as the FIR No. 70 is concerned, which was registered under Section 25 of the Arms Act, the petitioner is not on bail. Furthermore, in FIR No. 112 which was registered under Section 307, 34 and 120-B IPC and Section 25 of the Arms Act against the petitioner is not on bail. He further submitted that when the father of the petitioner was contacted on phone, he only said that unless his son is granted bail in other cases, his son who is the petitioner will not be able to join investigation. He further submitted that in view of the aforesaid position, the petitioner Rajvinder @ Anu does not deserve the concession of anticipatory bail and, therefore, has prayed that the petition may be dismissed.

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Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana has submitted that the petitioner Arun Kumar was granted interim anticipatory bail by this Court on 03.02.2022 and the petitioner Arun Kumar in pursuance of the aforesaid order has joined investigation. He further submitted that so far as the petitioner Arun Kumar is concerned, as per his instructions he is not involved in any other case.

Mr. P.S. Ahluwalia, learned counsel for the complainant has also advanced arguments. He submitted that the complainant Kuldeep Singh was attacked by two persons who were having muffled faces and they had fired shots and during investigation empty cartridges were also found on the spot. He further submitted that the part of the incident has also been captured in the CCTV Footage from where it can be seen that the

complainant and Baldev were being chased by two persons having arms in their hands and the injuries were suffered by the complainant and the aforesaid Baldev. He further submitted that the basic dispute in the present case was that the petitioner wanted share in the mining business of the company where the complainant was working as a Field Officer and since the complainant had refused to pay the money to them, they tried to kill the complainant and other person namely Baldev. He further submitted that after the present incident the petitioner Rajvinder @Anu also put the said incident on the social media(Facebook) by owning the responsibility.

Mr. R.K. Handa, Advocate has however submitted that so far as the putting of post on the social media is concerned, the same cannot be relied upon since the social media reports can also be managed and fabricated. He further submitted that so far as the FIR Nos. 70 and 112 are concerned, it is correct that petitioner Rajvinder @ Anu is not on bail. He has however submitted that after the passing of the interim order in favour of petitioner Rajvinder Singh @ Anu, he approached the I.O but he was Covid positive and, therefore, the petitioner could not join investigation. He further submitted that the petitioner namely Rajvinder @ Anu was falsely implicated in FIRs No. 70 and 112 and he is apprehending arrest from the police in those cases as well and he has also seeking his legal remedy in those cases which are available to him in accordance with law.

I have heard the learned counsel for the parties.

Both the aforesaid cases are to be considered in the light of the facts and circumstances of both the respective cases, although both of them are being taken up for final disposal.

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The petitioner was granted interim bail by this Court on 11.01.2022. He was directed to join investigation as and when called by the Investigating Officer and also to comply with the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure. The State has taken up a categorical stand by stating that despite the orders passed by this Court he has not joined investigation. Furthermore, vide Mark-X three times written notices were issued to him which were received by his father and still he did not come and join the investigation, The petitioner was stated to be involved in some other cases which have been described in the affidavit filed by the State. In some of the cases, he has been acquitted but so far as the FIR No. 70 and FIR No. 112 are concerned, they are still pending apart from the other cases and the petitioner is not on bail in the aforesaid FIR No. 70 and FIR No. 112. The argument raised by the learned counsel for the petitioner that I.O. was Covid positive on being contacted cannot be sustained because petitioner was granted interim bail 4 ½ months ago and three times written notices were sent.

In view of the aforesaid two factors i.e. the petitioner despite the orders passed by this Court did not join the investigation and the antecedents of the petitioner coupled with the gravity and seriousness of the offence, the petitioner namely Rajvinder @ Anu does not deserve the concession of anticipatory bail.

In view of the aforesaid position, the anticipatory bail filed by the petitioner namely Rajvinder @ Anu is hereby dismissed.

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The petitioner Arun Kumar was granted interim bail by this Court on 03.02.2022 and as per the learned Additional Advocate General, Haryana, he has joined the investigation in pursuance of the aforesaid order. The petitioner Arun Kumar is stated to be not involved in any other case.

In view of the aforesaid factual position, the petitioner Arun Kumar deserves the concession of anticipatory bail and consequently, the present petition filed by Arun Kumar is allowed and the order dated 03.02.2022 is hereby made absolute.

In view of the above, CRM-M-947-2022 is hereby dismissed and CRM-M-4471-2022 is allowed.

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 petitions only.

31.05.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No