

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

101

CRM-M-4644-2022(O&M)

Date of Decision : **February 04, 2022**

MOHD. WARISH

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Through Video Conferencing

Present : Ms. Rosi, Advocate
for the petitioner.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.162 dated 4.7.2021 under Sections 380, 457 IPC (later added Sections 411 and 34 IPC), registered at Police Station, Manesar, District Gurugram.

As per the FIR Annexure P-1 which was registered on the basis of a complaint made by complainant, namely, Mahendra Singh that he has a shop of Yadav Cool Point in village Manesar and in the evening of 3.7.2021 he went to his house after closing the shop. Thereafter on 4.7.2021 in the morning when he came to his shop and saw that lock of his shop was broken and shutter was up and when he went inside the shop then 50 kg copper pipe, AC, 23 compressors of fridge and 38 voltage AC, fridge, 25 roll of AC copper wire, 10 AC coils and Rs.10,000/- were stolen. There was CCTV camera installed near his shop and it could be seen that 4 young persons were stealing and taking the articles in Echo

car and time was about 4.00 a.m. in the morning.

It has been submitted by the learned counsel for the petitioner that the petitioner has not been identified in the CCTV footage camera nor he has been identified anywhere and the petitioner has no criminal background and he is not involved in any other case and even three other co-accused, who were arrested have been granted regular bail by the learned trial Court vide Annexures P-3 and P-4 and, therefore, the petitioner may be considered for the grant of anticipatory bail.

On the other hand, Mr. Naveen Singh Panwar, DAG, Haryana has vehemently opposed the grant of anticipatory bail to the petitioner by submitting that it is a case where four persons had committed a theft of large number of articles and they had taken the same in a Echo Van bearing no. HR-72D-9687 which was owned by one Bharat Singh and on coming to know with regard to the theft committed, the police identified the car and apprehended the other three accused alongwith the car itself. The petitioner who was the fourth accused was also there but he managed to escape. The other three co-accused were apprehended and the stolen articles were recovered. He further submitted that the mere fact that the other co-accused have been granted regular bail by the trial Court would not confer any right upon the petitioner because of the reason that the present offence was committed on 4.7.2021 which is almost six months ago and the petitioner is absconding from justice. He submitted that it is a case where custodial investigation of the petitioner is required for the purpose of elicitation of truth and also as to whether he is involved in some other cases or not earlier. He has further

submitted that the incident of such kind of theft is on increase day by day and in CCTV footage camera four persons were seen wearing mask and, therefore, it is necessary to interrogate the petitioner by having custodial investigation.

I have heard the learned counsels for the parties.

It is a case where four persons, who were wearing mask and allegedly in the morning committed a theft of large number of articles from the shop and in the CCTV footage camera it could be seen as per the learned State counsel that they had taken the articles in a van which has been identified and when the police laid down a raid then out of the four accused, three persons were arrested at the spot alongwith the articles which were lying in the same car and the petitioner had fled away. The petitioner is absconding since the last six months and the submissions made by the learned State counsel that in the present case for the purpose of elicitation of truth the custodial investigation is required does carry some weight. The arguments raised by the learned counsel for the petitioner that the other co-accused have been granted regular bail by the learned trial Court would not confer any special right upon the petitioner for the grant of anticipatory bail in view of the fact that the petitioner is absconding for the last six months. I also find weight in the arguments raised by the learned State counsel that the incident of such kind of thefts is on the rise and since the people are wearing mask there is a difficulty in the identification of the culprits. Therefore, considering the totality of the circumstances of the present case, I do not deem it fit and proper to grant anticipatory bail to the petitioner.

Consequently, the present petition is dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

February 04, 2022

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(JASGURPREET SINGH PURI)

JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No