

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No. 210
(Heard through Video-Conferencing)

CRM-M No.8543 of 2022
Date of Decision: 22.03.2022

Tofik

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Naveen Thakur, Advocate,
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

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 the criminal case arising out of the FIR bearing No.243 dated 27.10.2017, registered at Police Station Pinangwan, District Nuh, under Sections 392, 420 IPC and Sections 25, 54 and 59 of the Arms Act, 1959, but the challan was presented under Sections 395, 397, 420, 201 IPC and Sections 25, 54 and 59 of the Arms Act, 1959.

As per the contents of the FIR, it was alleged against the accused that the complainant had finalized a deal on OLX for purchase of a Maruti Desire car as the condition of the car was very good and was stated to be registered in West Bengal and the complainant also belongs to West Bengal and thereafter, the complainant was asked to come to Delhi by the seller and thereafter, he was asked to take a bus from Dhoola Kua at Delhi to Badkali at Nuh, when he reached the place then a person came on

motorcycle mark CD Deluxe No. RJ 02 4675 and brought him into the forest of Village Akbarpur and kept a gun on his temporal and snatched Rs.2,00,000/-, two tola gold chain, two gold rings, gold earrings and one Rado watch which were worn by him. Thereafter, he snatched his purse and asked his ATM pin by showing him the gun and when he denied then he started beating him and burnt his hand with cigarette, thereafter, knowing the ATM pin number, he withdrew Rs.40,000/- from HDFC ATM and also swiped other cards at Petrol pump. As per the FIR, it appears that one more person, a co-accused, is also involved and therefore, FIR was also registered against unknown person.

It has been submitted by learned counsel for the petitioner that the incident is of 22.10.2017 whereas the FIR was registered on 27.10.2017. He submitted that the petitioner is not involved in any other case and his name was disclosed on the basis of disclosure statement and therefore, he deserves the benefit of anticipatory bail.

Learned State counsel has stated that a detailed reply has been filed by the State of Haryana, wherein it has been submitted that in fact along with co-accused, there were total 5 persons and they took the complainant to the hills and put a country made pistol on his temporal and not only snatched Rs.2,00,000/- from him, but also various gold articles and watch and thereafter, on getting his ATM Pin number withdrew Rs.40,000/- from HDFC ATM and also swiped the card for getting the petrol. Thereafter, the complainant was left in the jungle at around 6.45 PM at some unknown place and was also criminally intimidated with dire consequences if legal action would be initiated against them. Thereafter, somehow the complainant reached at the house of his brother in Delhi. He

submitted that co-accused Akhtar Khan was arrested in the present case on 14.11.2017 and one mobile phone Samsung A-5 Golden colour was also recovered from him and he also demarcated the place of incident where the complainant was robbed. He also gave a disclosure statement in which he named the petitioner i.e Tofik and some other persons, who are involved in the present case. During investigation, it was found that the total accused were found to be six in number and after completion of investigation against one Akhtar Khan challan was submitted in the learned trial Court on 30.01.2018. After that on 23.12.2021, a co-accused Noor Mohd. was arrested and his disclosure statement was also recorded and he also disclosed the name of the petitioner during the course of the investigation.

Learned State counsel further submitted that these six persons made plans for the purpose of looting people by sending a personal mail on the pretext of selling articles. The present petitioner is stated to be belonging to the State of Uttar Pradesh at District Mathura and he has been absconding from the last five years. He further submitted that in such like cases of dacoity custodial investigation of the petitioner is required for the purpose of elicitation of truth. He has further vehemently opposed the grant of anticipatory bail to the petitioner.

I have heard learned counsel for the parties.

The facts as narrated in the FIR and as stated by learned counsel for the parties, would show that these alleged persons along with the petitioner had called the complainant from West Bengal for the purpose of selling a car and the registration of the car was also of West Bengal and when he reached Delhi he was advised to take a bus to go to a village in District Nuh in Haryana and thereafter, he was taken to forest and was

looted. Considering the gravity of the offence apart from the fact that the petitioner is stated to be absconding from the last five years would disentitle the petitioner for grant of anticipatory bail. The argument raised by learned State counsel that in the facts and circumstances of the present case, it is a fit case for custodial interrogation for the purpose of elicitation of truth regarding his involvement in other cases when the petitioner belongs to the State of West Bengal and the fact that the petitioner is absconding from the last five years, does carry weight.

Keeping in view the gravity of the offence as well as the fact that the petitioner has been absconding for about five years, this Court does not deem it fit and proper to grant anticipatory bail to the petitioner. Consequently, finding no merit in the petition, the same is hereby dismissed.

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

22.03.2022*monika***(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*