

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

207)

CRM-M-11387-2021

Date of Decision: 19.01.2022

Gurdev Singh

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Ashok Kumar Kunger, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Amol Rattan Singh, J. (Oral)

Case heard *via* video conferencing.

CRM-40481-2021

Pursuant to the orders dated 10.11.2021 and 23.11.2021, this application has been filed, seeking to place on record an order passed by the learned JMIC, Abohar, dated 16.11.2021.

Notice in the application.

Mr. Rana Harjasdeep Singh, DAG, Punjab, accepts notice at the asking of the court on behalf of the respondent State.

The application is allowed subject to all just exceptions and the copy of the aforesaid order is taken on record as Annexure P-1, with the accompanying petition.

CRM-M-11387-2021

A perusal of the said order shows that in fact the petitioner did not appear before that court on 16.11.2021, before 1:00 p.m., though his wife,

Harjit Kaur, appeared; on account of which obviously the petitioner was not admitted to interim bail by that court.

On 27.08.2021, the following order had been passed by this court(co-ordinate bench) after notice of motion was initially issued on 12.03.2021, staying the arrest of the petitioner till the next date of hearing:-

“Vide order dated 12.03.2021 arrest of the petitioner was stayed on the premise that the petitioner was nominated on the basis of bilty of goods for which there was no parentage of the driver mentioned therein. Even mobile, sim and keypad etc. do not belong to the petitioner.

In view of aforesaid facts, it would just and appropriate direct the petitioner to appear before the SHO/Investigating Officer to join investigation on 02.09.2021 at 11.00 A.M., and in the event of his arrest, he shall be enlarged on interim bail, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of Arresting Officer. However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Nothing expressed hereinabove shall be construed to be an opinion on the merits of the case. The case shall be decided on merits on the adjourned date.

Adjourned to 10.11.2021.”

Thereafter on 10.11.2021, the following order was passed:-

“The reply filed on behalf of the respondent State, dated 13.10.2021, is ordered to be taken on record.

Though learned counsel for the petitioner submits that pursuant to the order dated 28.07.2021 the petitioner has joined investigation, learned State counsel submits that, as per his instructions from ASI Pargat Singh, he has not joined investigation.

The petitioner is directed to appear the learned Area Magistrate concerned on 16.11.2021, before 1:00 p.m., with the learned Area Magistrate to summon the investigating officer and to ensure that the petitioner is positively joined in the investigation, and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Area Magistrate, till the next date of hearing before this court.

He would continue to comply with the provisions of Section 438 (2) of the Cr.P.C.

Adjourned to 23.11.2021.”

On 23.11.2021, the petitioner had been directed to place on record the order passed by the learned Area Magistrate on 16.11.2021, as has now

been taken on record.

Learned counsel for the petitioner submits that as already noticed in that order, it had been contended before the court that the petitioner being a driver, was away to Calcutta, and today he submits that he could not reach back on time to appear before the learned Area Magistrate, which is why his wife had appeared before that court.

Having considered that argument as also the reply filed on behalf of the respondent State, it is seen that as per the said reply, when the vehicle bearing registration no. PB-05-K-6363 was checked at a police post, the driver on the pretext of parking the vehicle on the side of the road, is alleged to have alighted and run away from the spot, taking advantage of the fog (at about 7:00 a.m.) on 22.02.2021.

Thereafter, upon the documents as were available in the vehicle, it was found that it had been loaded at Gujarat, with the name of the driver given as Gurdev Singh in the bill receipt/*bilti* .

That being so, that affidavit obviously not having been before this court at the time when the petitioner was admitted to bail, I see no reason to any further entertain this petition, which is consequently dismissed, with the interim order vacated.

January 19, 2022

dharamvir//

**(AMOL RATTAN SINGH)
JUDGE**

Whether reasoned/speaking : Yes
Whether reportable: No