

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14565-2021

Date of Decision: 23.02.2022

Bhupinder

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vinod Ghai, Senior Advocate, with
Ms. Kanika Ahuja, Advocate,
for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 235 having been registered at Police Station Sampla, District Rohtak, on 21.05.2019, alleging therein the commission of offences punishable under the provisions of Sections 407/420 of the IPC (with Section 120-B of the IPC).

On 31.03.2021, the following order was recorded by this court (coordinate Bench):-

“The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Learned senior counsel for the petitioner has argued that it is after four years, petitioner has been named as an accused in the case, that too, with the aid of Section 120-B IPC.

Notice of motion.

At this stage, Mr. Bhupender Singh, D.A.G., Haryana, has put in appearance and accepts notice on behalf of the respondent-State. He submits that in the present case, an SIT has been constituted. He seeks time to produce on record status report including the status of the SIT constituted in the case.

List on 23.04.2021.

Till next date of hearing, arrest of the petitioner shall remain stayed.”

Thereafter, on 06.09.2021, the following order was recorded:-

“Case heard by way of video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR no.235, dated 21.05.2019, having been registered at Police Station Sampla, District Rohtak, alleging therein the commission of offences punishable under Sections 407, 420 of the IPC, with Section 120-B thereof added subsequently in the FIR.

On March 31, 2021, upon the contention of the learned senior counsel appearing for the petitioner, to the effect that the petitioner has been implicated in the occurrence in question which took place in the year 2017 after 4 years, while issuing notice of motion, the arrest of the petitioner had been stayed till the next date of hearing, with that order having been continued on April 23, 2021, with the State having filed a reply on that date.

Today learned State counsel at the outset points to “the biodata of the petitioner” as is contained in its reply, showing that other than the FIR in question in which he is arraigned as an accused ‘under Section

120-B of the IPC’, there are 17 other criminal cases registered against him, of similar nature or otherwise, including some under the provisions of the Excise Act of different States.

Mr. Ghai submits that the occurrence having taken place in the year 2017, with 5 trucks seized in Bihar and criminal cases registered against the driver and the other accompanying the trucks under the provisions of the Bihar Liquor Prohibition Act, 2016, the petitioner has simply been named as an accused on an alleged disclosure statement made in the year 2020 by one of those who are stated to have been arrested in Bihar.

He submits that as a matter of fact during the ‘covid period’ the petitioner has been implicated in a large number of cases falsely, only because there are other cases registered against him.

At this stage, without making any comment on the merits of the case for or against the petitioner, since the arrest of the petitioner itself had been stayed, the petitioner is now directed to join investigation within a week and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaqa Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation. A status report by way of an affidavit of a gazetted officer be filed before the next date of

hearing, with regard to the investigation carried out after the petitioner joined investigation.

Adjourned to 25.10.2021.

Thus, the interim order passed earlier was modified to the extent that the petitioner was directed to join investigation and upon him so joining if he was sought to be arrested, he was to be released on bail.

On 13.12.2021, the Superintendent of Police, Rohtak, had filed an affidavit pursuant to directions earlier given by this court, in view of the seeming contradiction of statements made by the Additional Superintendent of Police earlier, with the affidavit of the Superintendent of Police stating that the Additional Superintendent of Police had made an inadvertent mistake due to which it was stated that the petitioners' name was disclosed by two persons, whereas actually it was only disclosed by one Ramesh who otherwise knows the petitioner very well as they both belong to the same village; and there being 17 other criminal cases registered against the petitioner.

Thus, in fact it had been stated that other than the disclosure statement made by the aforesaid Ramesh in custody, there was no other evidence linking the petitioner to the commission of the offence in question.

Today, Mr. Ghai, learned senior counsel for the petitioner again reiterates that as regards the alleged smuggling of illegal liquor, cases under the provisions of the Bihar Liquor Prohibition Act, 2016, already stand registered, and presently the petitioners' custodial interrogation is only sought for the recovery of some goods of Colgate Palmolive India Ltd.

Learned State counsel however submits that though that is one of the reasons why the petitioners' custodial interrogation is required, the other is for him to disclose the whereabouts of his friend 'Rammi', who is also involved in the case on a similar footing as the petitioner.

Having considered the matter, looking at the nature of the allegations made against the petitioner and the fact that the only evidence so far with the police is an alleged disclosure statement made in police custody, without making any comment on the actual merits of the case, the petition is allowed with the order dated 06.09.2021 made absolute, on the same terms and conditions.

February 23, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No.