

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-13880-2022

Date of Decision: 27.10.2022

Abhishek

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sumit Sangwan, Advocate for the petitioner

Mr. Chetan Sharma, AAG Haryana

Sandeep Moudgil, J. (Oral)

(1) The petitioner has filed this petition under Section 438 CrPC seeking anticipatory bail in case FIR No.0170 dated 12.03.2022 (Annexure P1) under Sections 147/149/427/506 IPC and Section 25 of the Arms Act,1959 (Sections 341/511 IPC added later on as mentioned in the order dated 21.03.2022), registered at Police Station Shivaji Colony, District Rohtak.

(2) Brief facts are that the present case was registered on the complaint of Balraj Singh Nandal son of Umrav Singh, resident of village Bohar at present Kutana, District Rohtak, who reported that on 11.3.2022, at about 9:00/9:30 p.m., he was going towards his house after finishing his personal work in car bearing registration No.HR-12-AL-4253. When he was crossing the flyover situated near old Bus Stand, Rohtak towards Bhiwani Octroi, then three boys came on their motorcycle and tried to stop him after showing revolver. He suspected some incident, and drove his car towards Bhiwani Octroi. Due to crowd at Bhiwani Chowk and a truck coming ahead, the motorcyclists also tried to stop his car. He drove his car with great

difficulty and since the railway crossing was closed, his car struck with it. Thereafter, 8-10 boys came there and attacked him damaging his car as well. He locked his car from inside due to fear and further averred that the assailants tried to kill him.

(3) Notice of motion was issued on 02.04.2022 and this Court directed that the petitioner be released on interim bail.

(4) On 23.08.2022, learned State counsel informed that though the petitioner has joined the investigation but is not cooperating with the investigating agency as the vehicle involved in the offence is yet to be recovered. Therefore, the petitioner was directed to appear before the Investigating Officer on 29.08.2022 at 10.00 am to get the recovery effected, if any.

(5) Today when the matter came up for hearing, learned State counsel has informed that the petitioner is still not cooperating in getting recovered the vehicle involved in the offence.

(6) At this stage, learned counsel for the petitioner has supplied copy of the orders dated 09.09.2022 and 07.10.2022 vide which learned trial court has allowed bail to the co-accused Bijender and Ritik to contend that in those cases also the situation was identical. However, the trial court has made absolute the order of bail already granted to the co-accused.

(7) A perusal of the orders dated 09.09.2022 and 07.10.2022 also depict that the weapon used in the offence has not been recovered so far, though the co-accused Ritik and Bijender have joined the investigation as recorded therein.

(8) The present petitioner is claiming parity with these two orders. However, the truck is yet to be recovered despite his joining investigation under the orders of this Court having interim protection in his favour. Be that as it may, this Court cannot overlook the fact that the accused joining investigation is not merely a process to be completed in formal for the purpose of seeking bail under Section 438 CrPC but shall be effective and worth for the investigating agency to proceed and enquire into the matter to reach to a final conclusion for the purpose of preparing report under Section 173 CrPC or otherwise.

(9) In the present case, the petitioner and the other co-accused seem to playing hide and seek with the investigating agency under the garb of interim protection granted by the court of law wherein no recovery has been made. The specific stand of the prosecution is that they are not cooperating while joining the investigation as neither the weapon used in the offence has been recovered nor the truck/offending vehicle bearing registration No. HR-12-AL-4253 has been produced before the IO.

(10) Be that as it may, without going into the merits of the case which is at the preliminary stage being sanguine of the situation, this Court is of the considered view that the concession cannot be granted under Section 438 CrPC to the petitioner as it is being used as a tool to get rid of the investigation, to help the police in solving the criminal offence and to nab the culprits.

(11) At this stage, this Court refrains from commenting anything on the orders passed by the trial court, referred to above much less to say that the every case has to be dealt with upon its own facts and circumstances.

(12) In these circumstances, this Court is left with no alternative but to cancel the interim bail granted vide order dated 02.04.2022.

(13) Accordingly, this petition is dismissed and the order dated 02.04.2022 is hereby vacated.

(14) Ordered accordingly.

27.10.2022
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No