

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 34159 of 2022

Date of Decision: 04.8.2022

Jaskaran Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Krishan Singh Dadwal, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

Mr. Ruhani Chadha, Advocate
for the complainant.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition, cast under Section 438 Cr.P.C., the petitioner craves for indulgence of his becoming admitted to anticipatory bail, in respect of FIR bearing No. 244 of 5.12.2021, registered at Police Station Dasuya, District Hoshiarpur, constituting therein offences under Sections 323, 342, 365, 148, 149 of the IPC.

2. The incriminatory role, as assigned to the present petitioner, is that despite his receiving a sum of Rs. 6,30,000/-, in respect of his selling, a Skoda car to the victim, and, thereafter his delivering its possession, under an affidavit, signed by him, to the victim, yet subsequently it becoming discovered, that the Skoda car was not free from encumbrances, as the present petitioner, rather not liquidating, some loan installments in respect thereof, to the lending institution concerned. Therefore, the non-payments of the borrowings, at the instance of the present petitioner, to the lending institution

concerned, would definitely beget the ill consequence qua the lending

institution concerned, for realising its loan in respect thereof, rather becoming led through recouring appropriate legal process, to, definitely ask for its attachment, and, sale. In consequence, the sufferer would be the victim.

3. Though, the learned counsel for the petitioner has drawn the attention of this Court to a compromise, drawn amongst the concerned, and, to which Annexure P-1 is assigned, but still the above compromise, is not acted, upon, but yet since the learned counsel for the petitioner, on instructions given to him, submits that the petitioner shall ensure, that the encumbrances of all the outstanding loan installments, in respect of the petition car, rather shall, become liquidated to the lending institution concerned, in consonance with the relevant schedule, qua their liquidation. Therefore, after accepting the above submission, and, also this Court making it a condition precedent for admitting the present petitioner, to pre-arrest bail, proceeds to admit him to pre arrest bail.

4. Moreover, the further reason, which constrains this Court, to grant the indulgence of pre arrest bail to the present petitioner, becomes generated from the factum, that at this stage, no evidence has been adduced by the prosecution, suggestive of the fact, that in the event of the bail petitioner being granted anticipatory bail, there is every likelihood of his fleeing from justice, and/or, tampering with prosecution evidence.

5. In consequence, the instant petition is allowed, but with the above condition precedent. The bail applicant-petitioner is admitted to anticipatory bail, and, in the event of his arrest, he may not be arrested by the investigating officer concerned. However, subject to the bail applicant-petitioner furnishing personal, and, surety bonds in the sum of Rs. 50,000/- each, to the satisfaction of the arresting officer. Furthermore, the bail applicant-petitioner shall also give an undertaking before the arresting officer, that as and when he is

summoned through a written Hukamnama, he shall ensure his rendering his cooperation to the investigating officer. Moreover, he shall also give an undertaking that he shall not influence the prosecution witnesses, nor shall tamper with the prosecution evidence.

6. It is clarified that, if at any stage, it is brought to the notice of this Court, by the learned State counsel, or by the learned counsel for the aggrieved victim, that there is any default on the part of the present petitioner in his making liquidations of all the borrowings, as per the schedule, to the lending institution concerned, thereupon this Court would become constrained to rescind the order, as made today.

7. It is still open to the petitioner, and, the complainant-victim to act, upon the compromise Annexure P-1.

8. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from the FIR (supra).

(SURESHWAR THAKUR)
JUDGE

August 04, 2022
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No