

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CRM-M-19378-2023
Sashank Singh . . . Petitioner
Vs.
State of Haryana Respondent

2. CRM-M-35863-2023
Sameer Farukh Kazi Petitioner
Vs.
State of Haryana Respondent

3. CRM-M-14361-2023
Prince Petitioner
Vs.
State of Haryana Respondent

4. CRM-M-13487-2023
Ravi Kumar Petitioner
Vs.
State of Haryana Respondent

Date of Decision: 04.08.2023

CORAM: HON’BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.P.S. Ahluwalia, Advocate,
for the petitioner (in CRM-M-19378-2023)
Mr. Bipan Ghai, Sr. Advocate, with
Mr. Nikhil Ghai, Mr. Paras Talwar and
Mr. Rishabh Singla, Advocates for the petitioner.
(in CRM-M-35863-2023)
Mr. Balraj Gujjar, Advocate, and
Mr. Shakti Singh, Advocate, for the petitioner
(In CRM-M-14361 & 13487-2023)

Mr. Vipul Sherwal, AAG, Haryana.
(In CRM-M-19378, 14361 & 13487-2023)

Mr. Parveen Kumar Aggarwal, DAG, Haryana
(In CRM-M-35863-2023)

Mr.D.S. Virk, Advocate, for the complainant.

DEEPAK GUPTA, J.

This order shall dispose of four petitions titled above, as in all four of them, regular bail has been prayed under Section 439 Cr.P.C. in case FIR No.546 dated 04.11.2022 registered at Police Station Pundri, District Kaithal for offences punishable under Sections 406, 418, 420, 386, 364-A and 120B of the Indian Penal Code, 1860.

2. FIR was lodged on the complainant of Amrit Pal Singh, as per which his brother Vikram Singh was willing to go to Canada. They came in touch with resident of their village namely Avtar Singh, who put them in touch with Devender Singh of Rudrapur, UP and Gurdeep Singh of District Meerut. On 28.10.2022, his brother was taken for sending him to Canada but instead, he was taken to Calcutta, where he was kidnapped and the currency amount (dollars) were snatched from him. Though it was projected to the complainant that his brother had reached Canada, but on getting a distress call from his brother, complainant came to know that his brother had been kept in Calcutta. An amount of ₹12 lakh was being demanded from him through audio and video call as ransom to release his brother. Gurdev Singh agent came to the house of the complainant and demanded ₹13 lakh for ensuring the release his brother.

3. During investigation, Gurdev Singh was arrested on 04.11.2022, who in his disclosure Statement told that he was in touch with a person

named Deshai having mobile No.90626-18460. That mobile phone was found being used in Mumbai. Whereabouts of said Deshai could not be found. In the meantime, complainant received WhatsApp call from the aforesaid mobile No.90626-18460, demanding ₹12 lakh, to ensure the release of his brother. Complainant paid ₹10 lakh at Delhi, but his brother was not released and demand for remaining amount of ₹2 lakh was made. As per further investigation, co-accused Deshai @ Abdul Karim Rehman Qureshi asked the complainant to send ₹2 lakh from Delhi via hawala. Police party went to Mumbai, where three persons namely, Moien Qureshi, Shashank Singh (petitioner in CRM-M-19378-2023) and Sameer Farukh Kazi (petitioner in CRM-M-35863-2023) were arrested with ₹2 lakh given as ransom money by the complainant. On notice under Section 41 Cr.P.C. served upon them, they agreed to cooperate in the investigation and telephonically conveyed to co-accused Deshai @ Abdul Karim Rehman Qureshi regarding receipt of ₹2 lakh. Said co-accused called them at Deluxe Hotel, Mumbai, from where the police party arrested said co-accused Deshai @ Abdul Karim Rehman Qureshi along with one Akhilesh.

4. On the interrogation of said accused Deshai @ Abdul Karim Rehman Qureshi, mobile used for giving threats and demanding ransom money, was recovered from him. On the directions of said Deshai @ Abdul Karim Rehman Qureshi to his associates in Calcutta, complainant's brother Vikram Singh was released. Said co-accused Deshai @ Abdul Karim Rehman Qureshi also disclosed the names of the persons i.e., Praveen Upadhayay, Anil, Ravi Kumar (petitioner in CRM-M-13487-2023), Prince (petitioner in CRM-M-14361-2023), Pankaj, Mohit, Sanjeev and

Mohammad Hussain, who used to confine the clients in Calcutta for demanding ransom. On 23.11.2022, all these co-accused were arrested. On the raid conducted on the whereabouts of the accused, many illegally confined persons namely, Sita Nepali w/o Basant, Krishthi, Subhash Kumar, Pawan Kumar, Suresh, Parkash, Shri Gurang and Bar Kumar were found confined there, who were released. On 01.12.2022, co-accused Avtar Singh was arrested and on the basis of his disclosure statement, an amount of ₹5000/- was recovered from him. During investigation, co-accused Devender Kumar was found not to be involved in the crime. After conducting the investigation, final report under Section 173(2) Cr.P.C. was submitted in the Court on 02.02.2023.

5. On behalf of the petitioners Shashank Singh and Sameer Farukh Kazi, it is contended that FIR was registered against four persons, namely, Avtar Singh, Devender Singh, Gurdev and Ram Raj. Ram Raj was found to be not a person and rather, name of a place in District Meerut. Devender Singh has been found to be innocent. Ld. Counsel further pointed out that complainant has already compromised the matter with co-accused Avtar Singh, who has been released on bail vide order dated 28.07.2023 passed by this Court in CRM-M-18369-2023. It is further contended that petitioners are not named in the FIR, nor any overt act is ascribed to them; that their name has surfaced only during investigation. The version propounded by the investigating agency is quite unnatural and improbable. In the supplementary statement made by the complainant and even in the statement of victim Vikram Singh under Sections 164 & 161 Cr.P.C., neither any of the petitioners have been named nor any role has been

attributed to them. Further, the offence is alleged to have taken place in four different cities inasmuch as alleged inducement was made at Kaithal, alleged money was paid at Delhi, victim was kept in Calcutta and the remaining amount of ransom money of ₹2 lakh was received in Mumbai. Still further, it is contended that the only role ascribed to petitioners Shashank Singh and Sameer Farukh Kazi is that they were present along with Moien Qureshi when the amount of ₹2 lakh was received. It is submitted that the petitioners duly cooperated in the investigation and that they have been engaged by co-accused Deshai @ Abdul Karim Rehman Qureshi on paying a small amount for collecting the amount. It is further stated that the petitioners are in custody for the last more than four months and that no purpose shall be served by their continuous incarceration inasmuch as investigation already has been concluded and trial may take time to conclude.

6. On behalf of the petitioners Prince and Ravi Kumar, it is contended that they are not named in the FIR, nor their name surfaced in the supplementary statement of the complainant or that of the victim; that no role is attributed to them; that they being unemployed had come in contact with their friends and had come to Calcutta for the purpose of sending them abroad. Both petitioners also plead about their long custody and pray for bail.

7. Strongly opposing the bail petition, Id. State counsel ably supported by the counsel for the complainant submitted that all the petitioners are part of a gang, who in conspiracy with each other, kidnapped Vikram Singh, the brother of the complainant and demanded ransom from

him. Attention is drawn towards the complete chain of investigation, in which the roles of the petitioners have been found to be the part of the conspiracy. Different members of the gangs were operating at different places, inasmuch as petitioners Shashank Singh and Sameer Farukh Kazi along with co-accused Moien Qureshi received the ransom amount of ₹2 lakh on the asking of co-accused Deshai @ Abdul Karim Rehman Qureshi and it is these petitioners, who led the police to the said co-accused Deshai @ Abdul Karim Rehman Qureshi. On the other hand, petitioners Ravi Kumar and Prince along with others were holding fort at Calcutta, where they had confined Vikram Singh along with many such other people and Vikram Singh was released only after getting the direction from Deshai @ Abdul Karim Rehman Qureshi. Ld. Counsel for the complainant concedes that complainant has compromised the matter with co-accused Avtar Singh, but submitted that it is because of the reason that Avtar Singh belongs to his village and the only role attributed to him is that he had made the complainant to come in contact with co-accused through conference call and that said Avtar had not taken any active part in the kidnapping or demanding ransom.

8. I have considered submissions of both the sides and have appraised the record.

9. The essence of an offence of the criminal conspiracy is the unlawful combination and the said offence is complete, the moment, the combination is framed. It is not even necessary that any particular overt act is done by all the accused in furtherance of the conspiracy. Besides it is not

possible to establish the conspiracy by direct offence and it has to be inferred from the circumstantial evidence collected during investigation.

10. In *Yash Pal Mittal vs State of Punjab, 1977 AIR 2433*, it has been observed by Hon'ble Supreme Court that *"it is not necessary that all the conspirators must know each and every detail of the conspiracy as long as they are co- conspirators in the main object of the conspiracy. There may be so many devices and techniques adopted to achieve the common goal of the conspiracy and there may be division of performances in the chain of actions with one object to achieve the real end of which every collaborator must be aware and in which each one of them must be interested. There must be unity of object or purpose but there may be plurality of means sometimes even unknown to one another, amongst the conspirators. In achieving the goal several offences may be committed by some of the conspirators even unknown to the others. The only relevant factor is that all means adopted and illegal acts done must be and purported to be in furtherance of the object of the conspiracy even though there may be sometimes misfire or over-shooting by some of the conspirators. Even if some steps are resorted to by one or two of the conspirators without the knowledge of the others, it will not affect the culpability of those others when they are associated with the object of the conspiracy"*.

11. In the present case, as the investigation revealed, all the petitioners clearly appear to be the part of conspiracy along with other co-accused, all of whom are members of a gang operating for the purpose of demanding ransom on kidnapping. Offences in question are quite grave

in nature. Offence under Section 364A IPC, in respect of kidnapping for ransom, is punishable with death or imprisonment for life. The investigation reveals that on the raid conducted at the whereabouts provided by the two petitioners Ravi Kumar and Prince along with co-accused, many more such illegally confined persons were got released. The two petitioners Shashank Singh and Sameer Farukh Kazi along with co-accused Moien Qureshi were found to have received the ransom amount of ₹2 lakh and it is they, who led the police to main accused Deshai @ Abdul Karim Rehman Qureshi. The trial is yet to begin. In case the petitioners are released on bail, they may put pressure upon the witnesses.

12. Having regard to all the facts and circumstances and the gravity of offence, but without commenting anything further on merits of the case, this Court is of the view that none of the petitioners deserve to be released on bail. Accordingly, all the petitions are hereby dismissed.

A photocopy of this order be placed on the files of other connected cases.

(DEEPAK GUPTA)
JUDGE

04.08.2023
Vivek

1. Whether speaking/reasoned?

Yes/No
2. Whether reportable?

Yes/No