

CRM No.M-32526 of 2023 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(106) CRM No.M-32526 of 2023 (O&M)
Date of Decision : 13.07.2023

Raghvir Khan ...Petitioner

Versus

State of Haryana ...Respondent

AND

CRM No.M-32629 of 2023 (O&M)
Raghvir Khan ...Petitioner

Versus

State of Haryana ...Respondent

AND

CRM No.M-32586 of 2023 (O&M)
Raghvir Khan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunny K. Singla, Advocate for the petitioner.

Ms. Gaganpreet Kaur, Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CRM No.27687 of 2023 and
CRM No.27740 of 2023 and
CRM No.27754 of 2023

Applications are allowed as prayed for.

Main Case

1. By this common order, the abovementioned three petitions filed under Section 438 Cr.P.C for the grant of anticipatory bail , the details of which have been given in the heading are being decided as all the three petitions arise out of the same incident.

2. Learned counsel for the petitioner argues that in the present petition, the FIR was registered against Manjit Singh and Narinder Singh, who were caught red handed while stealing the government property belonging to Railways. Thereafter, in the disclosure statement made by the accused, who were caught red handed, they nominated Harkesh Kumar @ Rakesh Kumar, Gurpreet @ Ajay and Jagdeep Singh @ Santi that they were selling the said stolen material to them. After roping in the said co-accused Harkesh, Gurpreet and Jagdeep Singh, in their disclosure statements, a fact came on record that the stolen property was being further sold to the petitioner who is a scrap dealer with the clear indication that the petitioner knew about the factum that

the property being received by him is a stolen property. On the basis of said statement, the petitioner was nominated in the present FIR.

3. Learned counsel for the petitioner argues that once the petitioner has been nominated only on the basis of the disclosure statement, and is ready to join the investigation, he is entitled for the grant of anticipatory bail.

4. Learned State counsel on the other hand submits that as of now, keeping in view the investigation, which has been done, the stolen property is in the possession of the petitioner and the same needs to be recovered or the status of the same needs to be ascertained, hence custodial interrogation of the petitioner is necessary so as to recover the stolen government property.

5. I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

6. Keeping in view the facts which has been stated hereinbefore, the chain of events show that the stolen property is in the possession of the petitioner. The said property needs to be recovered so as to take investigation to the logical end. For recovery of stolen property or to know the status of the stolen property, the custodial interrogation of the petitioner is necessary. The Investigating Agency is to be given a free hand so as to conduct the investigation in a smooth manner so as to find out the truth behind the allegations and complete the investigation so as to not only to find the accused but also to recover the stolen property.

7. Further, as per the settled principle of law, the interrogation of an accused, who is on anticipatory bail stands on a different footing as compared to the custodial interrogation of an accused. As per the judgment of Hon'ble Supreme Court of India in **State represented by the C.B.I. Vs. Anil Sharma,**

1997(4) RCR(Criminal) 268, where there are serious allegations against the accused and the truth needs to be elicited from the accused, the same can only be done through the custodial interrogation of the accused as compared to questioning an accused, who is already on anticipatory bail.

7. In the facts and circumstances of the present case, this is a fit case where the Investigating Agency should be allowed the custodial interrogation of petitioner not only to find the truth behind the allegations but also to recover the stolen property, which, in the facts and circumstances of the case, is being alleged to be with the petitioner as per the facts which have come on record.

8. Keeping in view the facts and circumstances of the present case, no ground is made out for grant of anticipatory bail as being prayed in the present three petitions and the same are accordingly dismissed.

9. However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

July 13, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No