

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102+368

CRM-M-50342-2023 (O&M)
Date of Decision: 13.12.2023

Vijay Kumar and another
...Petitioners
Versus
State of Haryana and another
...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Karandeep Singh, Advocate,
for the petitioner.
Ms. Ambika Sood, Addl. A.G., Haryana.

FIR No.	Dated	Section/s	Police Station
210	30.07.2023	370, 406, 420 & 506 IPC and Sections 10 and 24 of The Immigration Act, 1983	City Pehowa, District Kurukshetra

VIKAS SURI, J. (Oral)

- The petitioners have filed the present petition under Section 438 Cr.P.C. for grant of anticipatory bail in the above-captioned case.
- Before the main petition was listed for preliminary hearing, an application for deletion of name of petitioner No.2 Tamanna Rani wife of Vijay Kumar from the array of petitioners and for placing on record the amended memo of parties was moved, which was registered as CRM-42964-2023. Vide order dated 10.10.2023, the aforesaid application and its main case was ordered to be listed along with the other petition

bearing No.CRM-M-50061-2023. However, before the aforesaid application was considered on merits, another application has been filed, seeking withdrawal of the main petition with liberty to file a fresh one on the same cause of action on behalf of petitioner No.1, which has been registered as CRM-45687-2023.

3. On advance notice, Ms. Ambika Sood, Addl. A.G., Haryana, puts in appearance on behalf of respondent-State.

4. Learned counsel for the petitioners submits that the petitioners are husband and wife. Petitioner No.1 had taken the signatures of respondent No.2 on the *Vakalatnama* and engaged a counsel for filing a petition for grant of anticipatory bail before this Court. Petitioner No.2 was not aware about the steps taken by her husband, as both of them were changing places due to fear of being apprehended without first having availed of legal remedy available to them as per law and thus, there was miscommunication between them as such. The son-in-law of petitioner No.2 engaged another counsel on her behalf, who filed a separate anticipatory bail petition. Petitioner No.2 was not aware of the steps taken by the earlier counsel, who was in communication with petitioner No.1 only. The present petition was instituted on 30.09.2023 but the same was returned by the Registry for removing the formal defects pointed out. In the meantime, the other counsel engaged by the son-in-law of petitioner No.2 instituted a separate petition seeking anticipatory bail on her behalf, which was filed on 03.10.2023 and numbered as CRM-M-50061-2023. The present petition was also re-filed on the same day by the previous counsel. Both counsels were not aware of the other petition except the one institute through their respective office. Hence,

it is submitted that the present situation has arisen on account of the circumstances explained above and as both the petitioners were on the run, they were not even able to have normal *inter se* communication. It is submitted that there was no intention to file a duplicate petition seeking the same relief.

5. Per contra, learned State counsel submits that petitioner No.2 was granted the concession of interim anticipatory bail vide order dated 09.10.2023 passed in the connected matter (CRM-50061-2023), pursuant to which she has joined investigation and is not required for custodial interrogation.

6. Heard learned counsel for the parties.

7. A perusal of the record shows that prior to listing of the present petition before the Court, an application being CRM-42964-2023 was moved seeking deletion of the name of petitioner No.2 from the memo of parties, and the when following order was passed on 10.10.2023:-

“This is an application for deletion of name of petitioner No.2 namely Tamanna Kaur wife of Vijay Kumar from the array of petitioners and for placing on record the amended memo of parties. It is pleaded in the application that petitioner No.2 has already been granted anticipatory bail by this Court vide order dated 04.10.2023 passed in CRM-M-50061-2023.

It is not clear from the averments made in the application whether the fact of pendency of the present petition was disclosed or not in the afore-noticed petition. It is submitted that the aforesaid case is now pending for 07.12.2023.

Notice of the application to the respondents.”

8. Keeping in view the above and considering the explanation given by the petitioners and the fact that prior to institution of the above referred two petitions, petitioners were on the run to avoid being apprehended, the said explanation seems to be plausible and is liable to be accepted with the pinch of salt. However, the same cannot be accepted without imposition of costs for not being careful in making a solemn declaration before the Court. Accordingly, costs of ₹25,000/- is imposed upon the petitioners to be paid jointly by them. The aforesaid costs be deposited with the 'Punjab and Haryana High Court Clerks Bar Association, Chandigarh', within a period of four week from today, failing which the present order shall stand recalled automatically under Section 362 read with Section 482 Cr.P.C., without any further reference to this Court.

9. The present petition is dismissed as withdrawn with liberty to petitioner No.1 to file a fresh one on the same cause of action and without prejudice to the rights of petitioner No.2 in the connected petition, subject to the payment of aforesaid costs.

10. Pending applications, if any, also stand disposed of accordingly.

December 13, 2023
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

