

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

105 CRM-M-61022-2024
DATE OF DECISION: 05.12.2024

FARIAD ALI ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. VP Singh Rathore, Advocate for the petitioner(s).
Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

This petition has been filed under Section 482 BNSS, 2023 for grant of anticipatory bail in FIR No. 53 dated 07.09.2024 under Section 303 (2), 3 (5), 61, 317 (2) of BNS 2023 at Police Station Hajipur, District Hoshiarpur.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

‘Statement of Senior Constable Jatinder Singh No. 1414/HSP, MHC, Police station Hajipur, District Hoshiarpur, Stated that I have been posted as Head Munish at P.S. Hajipur since 19.06.2024. In FIR No. 29 dated 11.05.2024 u/s 279, 304-A, 337, 338, 427 IPC Police Station Hajipur, District Hoshiarpur, one Mahindra Arjun Tractor bearing No. PB-48G-8785 alongwith trolley and one swift dzire car bearing no. DL-4C-AM-2689 were taken in Police possession being case property. Due to scarcity of space in the Police station, the aforementioned dzire car and trolley were parked at T-Point

Hajipur, where there used to be routine naka duty day and night. Due to law and order duty on 04.09.2024, no official was sent to naka duty at night. When in the morning on 05.09.2024 I went there for checking then the trolley parked near the dzire car was missing. Some unknown persons had taken the trolley by committing theft. Search has been made but the trolley could not be recovered. Appropriate legal action be taken against unknown person. I have recorded my statement, which is true and correct.

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case and was nominated as an accused merely on the basis of the disclosure statement made by one co-accused-Mustak Ali, moreso, the name of the petitioner has been roped in the present case because the petitioner happens to be a relative of another co-accused namely Yunis. He has also placed reliance upon an order dated 19.11.2024 passed by this Court in CRM-M-50176-2024 vide which co-accused namely Salamat Ali has already been granted the concession of anticipatory bail and claims parity with him.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from ASI Harbhajan Singh candidly submits and informs the Court that the trolley used in the commissioning of the offence already stands recovered from co-accused Mustak Ali and the petitioner was thereafter named by that co-accused in his disclosure statement. He could not controvert the fact that the petitioner is at par

with the co-accused, who has already been granted the concession of bail.

4. **Analysis**

Be that as it may, after considering that since the State has failed to produce any incriminating material against the present petitioner at this stage who is running dairy business has been nominated on the basis of the disclosure statement alone and in the absence of any material to associate him directly at this stage in the commissioning of the offence, the custodial interrogation is not deemed to be necessary at this stage. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such

directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

05.12.2024
Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>