

CRM-M-35870-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35870-2024
Reserved on: 04.02.2025
Pronounced on: 28.02.2025

Ramesh ...Petitioner

Versus

State of Haryana ...Respondent

CRM-M-37694-2024

Anil ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashish Rana, Advocate
for the petitioner(s) in CRM-M-35870-2024.

Mr. Omkar Chauhan, Advocate
for the petitioner(s) in CRM-M-37694-2024.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Sandeep Kotla, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
424	08.07.2024	Chandni Bagh, Panipat	316(4), 317(2), 61 of BNS 2023

1. This order shall dispose of two petitions as mentioned above. For the sake of brevity, facts have been taken from *CRM-M-35870-2024 titled as Ramesh vs. State of Haryana.*
2. The petitioner(s) apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
3. In paragraph(s) 16 and 11 of the respective bail petition, the accused declare that they have no criminal antecedents.

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4. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That on 08.07.2024, complainant Amit Malik came present in Police Station Chandni Bagh and presented a written complaint inter alia with the allegations that he is resident of Village Jasrana, District Sonapat. He used to send vehicles for transport purposes. He has a truck bearing registration No. DD-01C-9880 and about two months ago, he had parked that vehicle in the open space on Sanoli Road in front of Ashirwad Hospital under supervision of Ramesh S/o Amar Chand, R/o Kutani Road, Panipat whose mobile number is 93505-63321 and who was working as driver with him. On 07.07.2024, at around 9:00 a.m., he went there but he could not find his truck parked there. He checked from the GPRS fixed in the truck which showed the truck at Rajgarh in Rajasthan. Thereafter, he and his companion namely Navneet @ Sonu had gone to Rajgarh and found their truck in the shop of Giriraj (Junk Dealer) who told them that his truck was sold to him by one person named Ramesh whose mobile number is 93505-63321.

On the basis of said complaint, facts and nature of crime, a formal FIR No. 424 dated 08.07.2024 under Sections 316(4) of BNS, was registered at Police Station Chandni Bagh, District Panipat.”

5. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

6. The State’s counsel opposes bail and has drawn attention of this Court to following portion of the reply:-

“2(iii) That on 11.07.2024, accused Vikas Kumar Singh Banjara S/o Giriraj (Junk Dealer) was joined in the investigation of present case and was interrogated with regard to facts of the case. During interrogation, it was revealed by him that the stolen truck was purchased by him from co-accused Anil and Ramesh through co-accused Manohar and Manoj. He further disclosed that he had made payment of Rs. 1,00,000/- in cash to Ramesh and Anil whereas he sent Rs. 60,000/- through online mode on the mobile number 93505xxxxx belonging to Ramesh and two installments of Rs.60,000/- and Rs. 80,000/- was sent by him on the mobile number 9650646312 and account no. 6483509398 situated at Indian Bank belonging to co-accused Anil. His disclosure statement was recorded in

due course of law. He also got recovered the truck bearing registration No. DD-01C-9880 make Tata 3118 in pursuance of his disclosure statement, which was taken into police possession as evidence through recovery memo and videography of the recovery was also done in due course of law. Accordingly, Section 317(2) was added in the present case as per the nature of crime. True Copy of Disclosure Statement of co-accused Vikesh Singh Banjara is annexed herewith as Annexure R-1.

During investigation, Komal W/o Lokesh (sister-in-law of co-accused Vikesh) sent screenshots of transaction on the mobile phone of the investigating officer. The perusal of which also revealed that Rs. 60,000/- was sent to the account of accused Ramesh Kumar. True Copy of Screenshot is annexed herewith as Annexure R-2.

(iv) That on 13.07.2024, accused Manohar Singh S/o Amarjeet Singh was joined in the investigation of present case and was interrogated with regard to allegations against him. On finding incriminating evidence against him he was formally arrested in this case in due course of law. During investigation, he confessed to his role in crime and got recorded his disclosure statement to the effect that his partner Manoj Dhiman told him that Anil and Ramesh wants to sell stolen vehicle and they will pay Rs. 35,000/- as commission for this purpose. Thereafter, he and Manoj Dhiman conspired with each other and got the stolen truck of Anil and Ramesh sold to Vikesh Singh Banjara S/o Giriraj for Rs. 4,45,000/-, Manohar received Rs. 35,000/- as commission from Vikesh Singh Banjara through online mobile application namely Phone Pay and Rs. 10,000/- was sent by him in the account of his partner Manoj Dhiman. Accordingly, Section 61 of BNS was added in the present case as per the nature of crime. True copy of disclosure statement of accused Manohar Singh is annexed herewith as Annexure R-3.

(v) That on 13.07.2024 itself, accused Manoj Dhiman was joined in the investigation of present case and was interrogated with regard to allegations against him. On finding incriminating evidence against him he was formally arrested in this case in due course of law. During investigation, he confessed to his role in crime and got recorded his disclosure statement admitting therein the manner in which he had committed this crime.

(vi) That in the meantime, Usha Devi W/o Arjun Singh was joined in the investigation of the case on 12.07.2024 and she gave her duly sworn affidavit in favour of the complainant to the effect that she is registered

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owner of the truck bearing registration no. DD-01-C-9980 and she had sold her truck to the complainant for Rs. 2,00,000/-. Her statement was also recorded in this regard.

(vii) That on 09.08.2024, Bank Statement of account no. 6483509398 belonging to Anil S/o Baldev Raj R/o Gohana from 03.07.2024 to 10.07.2024 was taken into police possession as evidence. The perusal of it revealed that the accused Anil had received Rs. 80,000/- from Komal Gawaria (Sister-in-law of accused Vikesh Kumar Banjara) on 03.07.2024 and he had also received a sum of Rs. 60,000/- from Vikesh Kumar Banjara in his account on 03.07.2024. True Copy of relevant account statement of accused Anil is annexed herewith as Annexure R-4.

(viii) That the petitioner Ramesh filed an application for anticipatory bail, before Ld. Additional Sessions Judge, Panipat, which was dismissed vide impugned order dated 18.07.2024 after considering facts and circumstances of the case which suffers from no legal infirmity.

(ix) That the further investigation of the case is still under progress and is at initial stage."

REASONING:

7. A reference to para 3 of the reply mentions that Ramesh was named in the FIR and allegedly he along with Anil, stole the truck and sold it to Vikesh Kumar Banjara for a sum of Rs.4,45,000/- with the help of commission agents/co-accused Manohar and Manoj. Petitioner-Ramesh received a sum of Rs. One lac in cash and Anil received Rs.60,000/- through online transaction on mobile number of Ramesh and two installments of Rs.60,000/- & Rs.80,000/- also made in an account. The truck has already been recovered. Thus, it is not a case for custodial interrogation or pre-trial incarceration.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for bail.

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10. Given above, provided the petitioners is not required in any other case, the petitioners shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioners shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. The petitioners are directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. This bail is conditional, and the foundational condition is that if the petitioners indulges in any non-bailable offense, the State may file an application for cancellation of

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this bail before the Sessions Court, which shall be at liberty to cancel this bail.

16. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petitions are allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

28.02.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.