
(1998) 07 P&H CK 0086

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous 924 of 1998 in Criminal Miscellaneous No. 21925-M of 1997

R.S.Malik

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 24-07-1998

Acts Referred:

Citation : (1998) 4 RCR(Criminal) 106

Hon'ble Judges : S.S.Sudhalkar, J

Advocate : Varinder Singh, S.S. Dalal, Baldev Singh, Advocates for appearing Parties

Judgement

S.S. Sudhalkar, J. (Oral)

1. Reply on behalf of respondent No 1 has been filed today in the Court. The same is taken on record. A copy of the same has been given to the learned counsel for the petitioners.

2. Heard the learned Counsel for the petitioners and learned Deputy Advocate General, Haryana. This Court on 13.10.1997 passed an order of anticipatory bail with conditions attached thereto. This is an application for extending the period of anticipatory bail because that order was for a period of 90 days only. The learned D.A.G. has argued that in addition to the prayer which was already granted in the earlier order dated 13.10.1997, the petitioners want some further relief viz. direction to State police to give at least a notice of 15 days if the petitioners are proposed to be arrested in any other case that may be registered against them in the State of Haryana. Learned Counsel for the petitioner has stated that he gives up the other additional reliefs which he claims in this application and confines his prayer only for the extension of the order of anticipatory bail passed on 13.10.1997 and regarding the notice in connection with arrest for any act of petitioner No. 1 during the course of his association with Haryana Olympic Association.

3. In the case of K.L. Verma v. State and another, 1997(1) Recent C.R. 493, the apex Court relying on its earlier judgment in the case of Salauddin Abdulsamad Shaikh v. State of Maharashtra, 1996(1) SCC 667 : 1998(2) RCR (CrI.) 96 has observed that anticipatory bail granted in anticipation of arrest in nonbailable cases does not mean that the regular Court which is to try the offender, is sought to be bypassed and it was, therefore, necessary that anticipatory bail orders should be of a limited duration only and ordinarily on the expiry of the duration or extended duration, the Court granting anticipatory bail should leave it to the regular Court to deal with the matter on an appreciation of evidence placed before it after the investigation has made progress or the chargesheet is submitted. It is also held therein that order of anticipatory bail will not enure till the end of trial but it must be of limited duration as the regular Court cannot be bypassed. It is further held by the apex Court that limited duration must be determined having regard to facts of the case and need to give accused sufficient time to move the regular Court for bail and to give the regular Court sufficient time to determine the bail application, and till the bail application is disposed of, Court may allow the accused to remain on anticipatory bail. To put it differently, anticipatory bail may be granted for a duration which may extend to the date on which the bail application is disposed of or even a few days thereafter to enable the accused persons to move the higher court, if they so desire.

4. Learned Counsel for the petitioners states that after the order dated 13.10.1997, one F.I.R. was registered. The learned D.A.G. states that F.I.R. No. 7 dated 29.4.1998 in the State Vigilance Department, for the offence under Section 13(1)(e) of the Prevention of Corruption Act was registered and the case is still under investigation. He also states that the learned Special Judge has released the petitioners on anticipatory bail in that case. Before passing of the order dated 13.10.1997, the petitioners could not give the specific serial number of the F.I.R. because no F.I.R. was filed against them till that time. However, they feared a criminal case(s) against them and, therefore, order so far as grant of anticipatory bail is concerned, was passed as follows :

"It is ordered that in case of arrest of the petitioners in connection with the acts committed by petitioner No. 1 during the course of his service as an IAS officer in the State of Haryana, all the petitioners shall be released on bail by the police on their furnishing bail bonds of Rs. 25,000/ each with one surety of the like amount.

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It is further ordered that in case the petitioners are to be arrested for any act of petitioner No. 1 during the course of his association with Haryana Olympic Association, Haryana. Swimming Association, Bal Shiksha Samiti, they may be given seven days" notice before their arrest by the police."

5. In view of the above circumstances, the learned Counsel for the petitioners

states that he further anticipates some F.I.Rs. for nonbailable offences. The order of anticipatory bail, therefore, deserves to be extended. However, in view of the principles laid down in the case of K.L. Verma (supra), I find that I may not limit the order of anticipatory bail for a particular date but will confine the same till the decision of bail application by the regular Court.

6. As a result, this petition is allowed. The order of anticipatory bail dated 13.10.1997 is further extended along with the same terms and conditions. However, the petitioners shall within 15 days of their formal arrest, file a regular bail application before a competent Court. If no such bail application is filed within the aforesaid period, this order shall automatically terminate. If any such bail application if filed is dismissed, this order shall terminate 15 days thereafter.

7. In view of the particular facts of this case, the order will continue as above but will not terminate completely if one case is filed against the petitioners and the bail application thereof is decided (except for that FIR).