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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-12284-2023
SAMUNDER RATHEEPETITIONER
VERSUS
STATE OF HARYANARESPONDENT
2. CRM-M-13714-2023
PAWAN AND ANRPETITIONERS
VERSUS
STATE OF HARYANARESPONDENT

DECIDED ON: 19.08.2025

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Shreenath A. Khemka, Advocate,
for the petitioner(s) (in both the cases).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. M.S. Rana, Advocate,
for the complainant (in both the cases).

SANJAY VASHISTH, J (ORAL)

1. Present petitions have been filed by the petitioners, seeking grant of anticipatory bail in case bearing FIR No.43, dated 17.02.2023, under Section(s) 25 of Arms Act, and 323, 452, 506 r/w 34 of IPC and under section 3(1) of the SC/ST Act, registered at Police Station Asauda, District Jhajjar.
2. On the issue of maintainability of the present anticipatory bail petitions, learned counsel for the petitioners places reliance on the judgment of the Hon'ble Supreme Court in *Prithvi Raj Chauhan vs.*



Union of India, W.P. (C) No. 1015 of 2018. It is submitted that in cases where no *prima facie* material exists to justify the arrest of an accused, the Court retains inherent powers under Section 482 of the Cr.P.C. to grant pre-arrest bail, even in the face of statutory bar, in order to prevent abuse of the process of law and to secure the ends of justice.

3. In the petition i.e. CRM-M-12284-2023, on 13.03.2023, following order was passed:-

“Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in this case on account of political rivalry in the village as he is the ex-sarpanch and the complainant is the present sarpanch; the petitioner does not have any other criminal antecedents; the allegations with regard to giving of beatings to the complainant are not against the petitioner and in any case, there is no medical record to support such allegations; the allegations that the petitioner hurled abuses to the complainant with regard to his caste are false but even if the same are taken to be true, they do not constitute any offence as admittedly such utterances were not in public and that the petitioner is also ready and willing to join and cooperate with the investigation.

Notice of motion.

Mr. Viney Phogat, DAG, Haryana, accepts notice on behalf of the respondent and prays for time to argue the matter.

Adjourned to 11.05.2023.

In the meanwhile, subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other



conditions provided under Section 438 (2) Cr.P.C, in the event of his arrest in FIR No.43 dated 17.02.2023 registered under Section 25 of the Arms Act, 1959 and Sections 323, 452, 506 and 34 IPC and Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Asauda, District Jhajjar, he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer.

Before the adjourned date, the State shall file a status report after consideration of which further orders in the present petition shall be passed.”

4. In the petition, i.e. CRM-M-13714-2023, on 20.03.2023, following order was passed:-

“Learned counsel for the petitioners inter alia relies on the issuance of notice of motion and grant of ad interim bail to co-accused Samunder Rathee , who had earlier approached this Court through CRM-MNo.12284 of 2023 – Samunder Rathee Vs. State of Haryana.

Notice of motion.

Mr. Viney Phogat, DAG, Haryana accepts notice on behalf of the respondent-State.

For arguments, adjourned to 11.05.2023.

To be heard along with CRM-M-12284-2023.

In the meanwhile subject to the petitioner’s joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438 (2) Cr.P.C, in the event of their arrest in FIR No.43 dated 17.02.2023 registered under Section 25 of the Arms Act, 1959 and Sections 323, 452, 506 read with



Section 34 IPC and Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Asauda, District Jhajjar, they shall be released on ad interim anticipatory bail to the satisfaction of the arresting officer.

Before the adjourned date, the State shall file a status report on the consideration of which further orders shall be passed in the present petition.”

5. Subsequently, petitioners (in both the cases) again joined the investigation, and on 21.02.2025, this fact was duly recorded by the Coordinate Bench of this Court. The said contention was also accepted by learned State counsel.

For reference, order dated 21.02.2025 is reproduced here below:-

“Status report by way of affidavit of Pawan Kumar, DSP, Bahadurgarh, District Jhajjar filed on behalf of the State is ordered to be taken on record.

Counsel appearing on behalf of the petitioner submits that in compliance of earlier order, the petitioner has joined investigation with the police. Even the State counsel has not disputed the aforesaid assertions made by the counsel for the petitioner and further submits that the petitioner is no longer required by the police for purpose of further investigation.

Counsel appearing on behalf of the complainant prays for time to argue the matter.

Now be listed on 7.4.2025.

Interim order to continue.

A photocopy of this order be placed on the file of the connected matter, numbered above.”



6. During the pendency of the present petitions, an allegation was made that petitioners had issued threats to the complainant over the mobile phone. Pursuant to this allegation, Investigating Officer took into possession the mobile phones of the petitioners, namely Samunder Rathee and Pawan, and they were accordingly again joined in the investigation.

It is not in dispute that petitioners have been enjoying the benefit of interim anticipatory bail, since March 2023, and the said interim orders have remained in operation, till date.

7. During the course of hearing, learned State counsel, on instructions from Inspector Amit Kumar, SHO, Police Station Asauda, District Jhajjar, informed the Court that one of the accused, namely Rakesh (petitioner in CRM-M-13714-2023), has since expired. Regarding the remaining petitioners, namely Samunder Rathee (petitioner in CRM-M-12284-2023) and Pawan (petitioner in CRM-M-13714-2023), it is submitted that they have duly joined the investigation and, upon completion of the same, *challan* has been submitted before the competent Court.

It is further informed that offence under Section 25 of the Arms Act has been deleted from the array of charges. However, since there was an allegation of issuing threats to the complainant during the pendency of the proceedings, Section 195-A of the IPC was subsequently added.

8. This Court has heard the submissions addressed by counsel for the parties and has also gone through the record available before it.



9. Taking into consideration the fact that, except for the single allegation of issuing threats during the pendency of the present petitions, no other instance of misconduct has been brought to the Court's notice, and acknowledging that both petitioners, namely Samunder Rathee and Pawan, have already joined the investigation and the final report has been submitted, with proceedings ongoing before the competent Court, this Court does not find any substantial reason to discontinue the interim relief already granted to the petitioners, vide orders dated 13.03.2023 (in CRM-M-12284-2023) and 20.03.2023 (in CRM-M-13714-2023).

Furthermore, allegations against the petitioners are yet to be proved beyond reasonable doubt by the prosecution. This Court also noticed that complainant and petitioner Samunder Rathee are both involved in local village politics, with one being the ex-Sarpanch and the other holding the office of Sarpanch at the time of the alleged incident, which cannot be ignored.

10. In view of the above, orders dated 13.03.2023 (in CRM-M-12284-2023) and 20.03.2023 (in CRM-M-13714-2023) are hereby made absolute. Accordingly, both the present petitions are allowed.

11. A photocopy of this order be placed on the file of other connected case.

(SANJAY VASHISTH)
JUDGE

19.08.2025
Lavisha

Whether speaking/reasoned ✓Yes/No
Whether reportable ✓Yes/No