Surender Vs State of Haryana

Criminal Miscellaneous No. M 7539 of 2009 (O and M)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 23, 2009

Citation: (2009) 04 P&H CK 0356

Hon'ble Judges: M.M.S. Bedi, J

Bench: Single Bench

Judgement

M.M.S. Bedi, J.

The petitioner is alleged to have made an attempt to commit theft of oil from National Mathura Pipe Line. The FIR was

registered on the basis of a secret information that two persons were expected to commit the theft from the National Mathura Pipe Line after

preparation of some false documents. The petitioner is alleged to be the registered owner of the tanker, which had to carry the stolen oil.

2. Learned Counsel for the petitioner has contended that as per the registration certificate, the petitioner is the owner of the tanker but as a matter

of fact the said tanker had been sold by him after 8.12.2008.

3. I have heard learned Counsel for the parties. Learned State counsel has contended that the petitioner has not joined the investigation pursuant to

the interim order passed by this Court. Learned Counsel for the petitioner has clarified that the petitioner has been involved in another similar case

vide FIR No. 316 dated 27.12.2008 for an attempt to commit theft from the above said pipe line. He has filed an application for pre-arrest bail in

the said case before the court of Sessions. There being no interim protection in the second case, it was difficult for the petitioner to comply with the

directions of this Court.

4. I have carefully considered the facts and circumstances of this case. There are no specific allegations against the petitioner. As per the secret

information, the tanker, which stands in the name of the petitioner on recovery was found to be empty, as such it will certainly be a moot point

during trial whether the petitioner can be held liable for an offence, which had not even been committed. Preparation of theft is not provided as an

offence specifically as per the IPC. The petitioner seems to have a probable defence that he has sold the said tanker.

5. Without expression of any opinion on merits of the case, it does not appear to be a case of custodial interrogation qua the petitioner.

Accordingly, the petition is allowed and it is ordered that in case of arrest of the petitioner, he will be admitted to bail to the satisfaction of the

arresting officer subject to the condition that he will appear before the investigating officer as and when required by the police and will not tamper

with evidence or hamper the investigation at any stage. The petitioner will not commit the similar offence of which he is accused of. He will not use

tanker No. HR 38C 6192 for the commission of similar offence or any other vehicle for the said purpose.

6. Anything said in the order will not affect the merits in the other case, registered against the petitioner and will not be treated as an excused by the

petitioner in not joining the investigation in the said case.