

ITEM NO.6

COURT NO.2

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).4818/2010

(From the judgement and order dated 26/04/2010 in CRLM No. 11360/2010 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

VISHWA NATH

Petitioner(s)

VERSUS

STATE OF PUNJAB

Respondent(s)

(With appln(s) anticipatory bail, for exemption from filing O.T. and office report)

Date: 24/05/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE C.K. PRASAD
(VACATION BENCH)

For Petitioner(s) Mr. Gagan Gupta,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Having failed to persuade the trial court and the High Court to entertain his prayer for pre-arrest bail in relation to F.I.R. No.72 dated 13.10.2009 registered under Sections 420, 465, 467, 471, 120-B, 353 and 186, Indian Penal Code at Police Station Ghanour, District Patiala, the petitioner has moved this Court by invoking its jurisdiction under Article

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136 of the Constitution.

We have heard learned counsel for the petitioner and carefully perused the record. The allegations contained in the first information report show that the petitioner was instrumental in preparing forged bills and bilties for transportation of iron through unauthorized passage. This was done with a

view to avoid payment of dues to the Excise and

Taxation Department of the State Government.

As per

the first information report, the petitioner used to travel in a Scorpio vehicle ahead of the trucks carrying the iron so that the same may not be detected by the officers/officials of the department. He is also said to have given instruction to the drivers of the trucks not to stop the vehicle and to run down any person who may attempt to obstruct their passage.

The first petition filed by the petitioner under Section 438 of the Code of Criminal Procedure was dismissed by Additional Sessions Judge, Patiala vide her order dated 3.11.2009. CRM No. M-32911 of 2009 filed by the petitioner was dismissed by the High Court on 15.12.2009. Soon thereafter, the petitioner filed second application under Section 438, Cr.P.C., which was dismissed by the learned Additional Sessions Judge,

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Patiala on 15.2.2010 and same was the fate of CRM No. M-11360 of 2010, which was dismissed by the High Court on 26.4.2010.

It is borne out from the record that after dismissal of the second petition by the learned Additional Sessions Judge, the petitioner procured a report dated 19.2.2010 from Deputy Superintendent of Police, Sub-Division, Rajpura, who virtually exonerated him of the allegations contained in the first information report. Thereafter, he moved the High Court with the hope that after perusing the report of the Deputy Superintendent of Police, the High Court may entertain his prayer for pre-arrest bail. However, as mentioned above, the High Court dismissed the second petition filed by the petitioner.

Since the allegations contained in the first information report are prima facie supported by the statement of the driver of one truck Suresh Kumar, who

stated that the petitioner and other co-accused used
to accompany the trucks carrying goods in a Scorpio
vehicle to keep close watch on any interception and he
was instructed to kill any one who may obstruct the
transportation of goods. This being the position,
there was absolutely no justification for entertaining

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the petitioner's prayer for anticipatory bail and the
learned Additional Sessions Judge and the High Court
did not commit any error by dismissing the petitions
filed by him.

Before concluding, we consider it necessary
to observe that even though a period of more than seven
months has elapsed from the date of registration of the
first information report, the petitioner is still at
large. Therefore, Senior Superintendent of Police,
Patiala is directed to ensure that steps necessary for
arresting the petitioner are taken without any delay.
The Deputy Inspector General of Police, Patiala Range
is also directed to look into the Report dated
19.2.2010 prepared by Deputy Superintendent of Police,
Sub-Division, Rajpura, which prima facie appears to be
an attempt to bail out the petitioner.

The special leave petition is disposed of in
the manner indicated above.

The Registry is directed to send copies of
this order by fax to the Deputy Inspector General of
Police, Patiala Range and Senior Superintendent of
Police, Patiala for compliance.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master