



CRM-M No. 23561 of 2024

210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 23561 of 2024
Date of Decision: 21.05.2024

Subhash Yadav ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rohit Suri, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
044	11.04.2024	City Kanina District Mahendergarh, Haryana	109, 120-B, 279, 304, 336, 337 of Indian Penal Code, 1860 and 185 and 192 of Motor Vehicle Act, 1954

1. Petitioner, a Director of G.L. Public Samiti, which operates G.L. Public School, Kanina, acts as an overall caretaker of the school. In active consultation and collaboration with the other officials of school management, the petitioner employed an individual named Dharmender to drive the school bus for transporting students. The appointment was done without cross-checking and adequately verifying the driver’s dependency on alcohol or other intoxicants, and on the day of the unfortunate incident as well, no efforts were made to assess his sobriety prior to his assignment to drive the school bus. Unfortunately, Dharmender had consumed alcohol that morning, and under its intoxication caused a fatal bus accident that led to the death of six children and severe injuries to several others. Due to the dereliction of duty and abject failure to ensure the safety of pupils, the petitioner is apprehending arrest in the FIR captioned for culpable homicide and has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Counsel for the petitioner seeks bail on the ground that he was neither the bus driver nor its owner. He submits that it’s the bus driver's fault and the petitioner's custodial interrogation would amount to nothing.

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3. State counsel has opposed the petition on the ground that the unfortunate accident caused the death of six students, and injured several others, three of whom have sustained serious and grave injuries, having detrimental lifetime implications. Additionally, the bus was in terrible dilapidated condition and was not even insured. The driver was found to be under the influence of alcohol at the time of incident. When he was arrested, the doctor could smell alcohol on his breath, and now his blood samples have been sent to FSL, awaiting a report.

4. An analysis of the pleadings and the arguments would lead to the following outcome.

5. The prosecution's case is taken from the reply dated 15.05.2024 filed by the concerned DySP. The petitioner is the Director and looks over the overall work of G.L. Public School, Kanina, in District Mahendergarh, Haryana. Deepti Yadav, the wife of the petitioner's brother, is the school's principal, and Rajinder Lodha is the school's owner. Around ten years earlier, the petitioner and other accused had taken a bus to ferry the children to school and back. The documents required under the Motor Vehicles Act of the said bus have already expired, it had no insurance, and the bus was in a terrible condition. Knowing this, the petitioner and co-accused were not bothered either to validate the documents or to take insurance or to replace the old, outdated bus with a modern road worthy bus possessing the certificate of fitness and insurance certificate, fit enough to absorb the impact of a potential crash. In connivance with other officials, including the petitioner, the school's owner wanted to employ a driver for the said outdated bus for a meager salary. Because the salary offered was extremely low, the petitioner and other officials of the school management very well knew that they would not be attracting many suitable candidates and were satisfied to employ one Dharmender, who was allegedly an alcoholic and was ready to take up the job with a low salary of Rs.9000/- per month, which is below the monthly minimum wage. The petitioner, being the caretaker, and the other accused, being the custodians of the school, did not even fact-check about the medical certificates, and alcohol addiction of the driver, putting not only the lives of school children at risk but also the lives of pedestrians and other vehicle drivers and passengers at peril.

6. The investigation reveals that the petitioner and other officers of school management knew that Dharmender was an alcoholic and would indulge in drinking liquor frequently. On the unfortunate day of April 11, 2024, Dharmender took alcohol in

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the morning, and under the influence of alcohol, he started picking up the children for school. Neither the petitioner nor the school management checked whether Dharmender was in his senses before going for his duty to pick up children for school.

7. Mr. Rajat Gautam, Ld. Additional Advocate General for Haryana contended that when Dharmender drove the bus towards village Kheri to bring children, he overtook a bike. The bike driver, named Arun, noticed that the driver was under the influence [DUI], overtook the bus, and stopped it. After that, Arun called the school number written on the bus, which was the number of the petitioner, and complained that the driver was driving the bus dangerously, under influence and at a high speed. He further contended that Arun had spoken with the petitioner, and the petitioner instead of asking the driver to stop there, told Arun that they would take action once he was back and asked the driver to come to school with the children. It also came in evidence that despite Arun warning the school administration telephonically about Dharmender being under the influence of alcohol, the petitioner, in a shocking display of negligence, did not stop the driver of the ill-fated bus, from driving the bus but instead asked him to continue driving it to the school.

8. The investigator has collected the call details from 'Just Dial', an Indian internet technology application that provides local searches for different services through phone, website, and mobile apps. The inputs provided by the Just Dial established that Arun had made a call on the phone number of the school mentioned on the bus, and the said call was made on 11.04.2024 in the morning at 8:08:38 and it lasted for 239 seconds. The investigation points out that the petitioner had attended to this phone call.

9. After that Arun again called another mobile number of the school which was also mentioned on the school bus and this call was made at 9:04:33 and lasted for 31 seconds.

10. After the accident, a student of +2 class made a complaint to the police officials that on 11.04.2024, 8.30 AM to 9 AM, when they were coming to the school on the school bus driven by driver Dharmender, he was under the influence of liquor. At that time, around 40-45 students were sitting in the bus, and children were repeatedly requesting him not to drive the bus at a fast speed, as that might cause an accident. However, Dharmender intimidated and threatened the children and kept driving the bus rashly, but after driving for some distance could not maneuver the bus, and it hit a big tree and overturned. Because of the impact, six students died, and several of them were

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injured, and few of them were injured severely, resulting in life threatening injuries with lifelong impact. Based on this information, the police had registered the FIR captioned above.

11. The investigation also revealed that the petitioner was working as the director, supervising the overall work of the school in question. To save money, the petitioner and the owners were using a school bus that was no better than a tumbler. Further, neither the Executive nor the Regulatory bodies found time to inspect the deplorable condition of bus, a failure that could only be attributed to the two possibilities : either the concerned government officials responsible are operating under the false belief of being autocrats, or they are grossly incompetent, apathetic, nonresponsive and negligent towards obligations that they owe to the State despite being paid from the public funds. Schools are pedestals on which the four pillars of democracy stand.

12. Coming back to the school, apparently to cut down the costs, the owners and their sycophants employed a driver on a low wage of INR 9,000/-per month. It is probably because that no skilled driver would drive the bus for such a low wage, the driver Dharmendra, who was an alcoholic, willing to do such a job, was employed with no regard to his addiction. The school management, of which the petitioner is a part, employed Dharmender on a monthly salary of INR 9000/- without basic fact-checking about his addiction to alcohol and intoxicants. Their prime aim was not to put the safety of children first, ensuring a comfortable and safe ride for the school students but to save money on salary.

13. Even on the ill-fated day, neither the petitioner nor any responsible officer of the school management before sending the driver on his assignment cared to check whether the driver was in a coherent mental state and sober. Before recruiting a driver for a school bus, it is of utmost importance to verify the driver's criminal antecedents and also to ensure that the driver is a safe and decent member of society, is not substance dependent, is not a thug, and is soft-spoken, considerate, decent, and very well-behaved. It is the least expected of the management of every school, and it is a constitutional obligation of the Executive not only to cross-check such credentials but also to validate the character of every school bus driver to ensure that school children are not at the mercy of perverts and addicts and to keep an eye on the standard of fitness requisite to such buses.

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14. The investigator has gathered sufficient evidence, which prima facie sets up that on the unfortunate day of 11.04.2024, Dharmender, who was deputed to drive the bus, had taken alcohol in the morning itself, leading to the loss of six bright lives and severe injuries to many more students, which in turn devastated the families and lives of the injured. Intoxication leads to cognitive impairment, leading to errors in judgment and sensible decision-making. The petitioner and other concerned school management officials did not vet the driver's credentials before entrusting young children's lives to him while ferrying them to and from the school. The Executive also did not wake up from its deep slumber and remained miles away from their constitutional obligations to provide just governance, causing the silent families to suffer the worst imaginable sufferings.

15. Children are the lifeblood and essence of any family, community and society. In families they shape the lives of their loved ones for the better, imparting a sense of purpose, bringing joy, love and strengthening the relationships. In communities and society, they are the very foundation of the future, embodying hope, representing possibilities and bringing dynamism, vitality essential for growth and betterment. They represent the culmination of their parent's blood, sweat, tears and aspirations, and it is impossible to find adjectives that fully capture the profound impact and significance children have in the lives and hearts of their family members and communities. Children are our today and our tomorrow. The fundamental reason for existence of the institution of school is to nurture and develop the children. Schools are established and administered, keeping the primary consideration of the welfare of children in mind, striving to cater to the constantly evolving needs of a growing child; within a safe, nurturing and supportive environment. Thus, when parents put their faith in a school establishment and entrust their child's safety to it, such a sensitive and immense responsibility needs to be taken solemnly, and should be approached with great caution, utmost seriousness and diligence. The school administrators cannot simply play the blame game, attributing faults to others and evade their fundamental, implicit/explicit duties, obligations and liabilities, under the guise of ignorance or negligence. A laxity of such massive proportion, that led to the loss of lives and limbs of so many children, cannot simply be ignored, looked past by or dismissed. Such a harrowing incident is a profound loss for us all, with its devastating impact on families affected to be incalculable. These precious lives cannot be brought back and those affected would forever bear its physical, mental scars, coping with the associated

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trauma of colossal magnitude and its bodily after-effects. It is the duty of us all and especially the legal justice system to ensure a fair and thorough investigation. It is imperative to highlight, identify and hold accountable all those who were responsible in bringing about such a catastrophe, not only to serve justice but also to ensure that such a tragedy does not repeat itself due to mismanagement and negligence of authorities concerned, under our collective watch.

16. Perusal of the reply reveals that the State seeks custodial interrogation of the petitioner to ascertain the prior interactions and engagement of school management and petitioner with the driver Dharmender specifically regarding his alcoholism and on how many occasions there were signs of alcohol intoxication. State seeks custodial interrogation to determine whether any verification of his addiction was conducted, any driving tests administered. The counsel submits that the petitioner will certainly not cooperate with all queries and evidence required to do justice to the victims and their families and proper investigation won't come to light unless the petitioner is subjected to custodial interrogation.

17. Given the severe nature of the allegations and the reasons proffered by the Investigator for need for petitioner's custodial interrogation, this Court is convinced that such evidence can only be collected when the petitioner is subjected to custodial interrogation. Even otherwise, considering the petitioner's blatant lack of care, he is not entitled to anticipatory bail under Section 438 CrPC.

18. Petition stands dismissed. All pending applications, if any also stands disposed.

(ANOOP CHITKARA)
JUDGE

21.05.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: **YES.**