

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.R.M-M No.40346 of 2015
Date of Decision : 11.12.2015**

Ashok Kumar @ Sonu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ravinder Malik, Advocate
for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.637 dated 02.09.2015, registered under Sections 4, 5, 6, 7 of the Immoral Traffic (Prevention) Act, 1956, at Police Station Sadar Karnal, District Karnal.

As per the allegations secret information was received that the petitioner was running a brothel. Raiding party was constituted and a decoy customer was sent. When the deal was struck, raiding party raided the premises where they found the co-accused alongwith two girls. As per the allegation the petitioner had handed over the currency note of Rs.500/- to the co-accused sitting near girls and managed to escape and the same was recovered by the raiding party.

Learned counsel for the petitioner has argued that the petitioner not having been found from the spot is the first good ground that he should be granted the concession of anticipatory bail. Apart from this he has relied upon various judgments passed by this Court. The first one is CRM-M-2733-2015, titled as Mahipal Singh vs. State of Haryana, decided on 20.03.2015 wherein this Court found as under:-

“The petitioner was required under the provisions of the aforesaid Acts and he pleaded that there is no other case registered against him. He was granted interim protection on 6.2.2015 pursuant to which petitioner is said to have joined investigation and it has been stated by the learned State Counsel on instructions from ASI Ravinder Kumar that petitioner is no longer required for investigation.”

The second one is CRM-M-37631-2015, titled as Palo Rani vs. State of Punjab, decided on 04.12.2015 wherein this Court found as under:-

“Notice of motion was issued and interim protection was granted.

Learned counsel for the State, on instructions from ASI Davinder Singh, Police Station Guruharsahai, Ferozepur, submits that in compliance of the order passed by this Court, petitioner has joined the investigation and she is no more required for the purpose of any further investigation.”

The third one is CRM-M-40231-2014, titled as Amarjit Singh vs. State of Punjab, decided on 19.12.2014 wherein this Court found as under:-

“4. During the course of preliminary hearing, the following order was passed by this Court on November 25, 2014: -

“Learned counsel, inter alia, contended that the petitioner, who is about 70 years of age, has been falsely implicated

in this case by the police being the owner of the premises in question. The argument is that even as per the allegations contained in the FIR, no offence punishable under Section 5 of The Immoral Traffic (Prevention) Act, 1956 is made out against the petitioner, whereas offences punishable under Sections 3 & 4 are bailable.

Heard.

Notice of motion be issued to the respondent, returnable for 19.12.2014.

Meanwhile, the petitioner is directed to join the investigation before the next date of hearing. In the event of his arrest, the Arresting Officer would admit him to bail on his furnishing adequate bail and surety bonds in the sum of Rs.25,000/- to his satisfaction.”

The fourth one is CRM-M-6388-2015, titled as Hashmat Ali @ Sonu vs. State of Punjab, decided on 27.04.2015, wherein this Court found as under:-

“2. While issuing notice of motion on February 26, 2015, petitioner was directed to join the investigation, while admitting him to interim bail subject to the conditions as envisaged under Section 438(2) Cr.P.C.

3. The learned counsel for the petitioner contends that petitioner has joined the investigation in terms of order passed by this Court on February 26, 2015.”

The fifth one is CRM-M-4394-2015, titled as Balwinder Kaur @ Pinki @ Balwindro vs. State of Punjab, decided on 21.05.2015, wherein this Court found as under:-

“2. At the time of issuance of notice of motion, following order was passed by a coordinate Bench of this Court on February 10, 2015:-

“Petitioner seeks concession of pre-arrest bail in a case registered on the basis of secret information that the petitioner had been indulging in acts of human trafficking in her house by permitting the couples to come from outside and indulge in immoral and illegal activities. No raid was conducted. Petitioner claims that she has been involved in the case because she filed representations.

Notice of motion to the Advocate General, Punjab, for 10.4.2015.

On asking of the Court, notice has been accepted by Mr.C.S.Brar, DAG., Punjab, present in the Court. Copy given.

Meanwhile, an interim direction is issued that the petitioner will join investigation on 21.2.2015 and 14.3.2015. In case of petitioner doing so, she will be released on interim bail to the satisfaction of the arresting officer.”

In my opinion, the judgments passed in the cases of Mahipal Singh, Palo Rani and Hashmat Ali @ Sonu (supra) do not indicate any reasons and consequently no reliance can be placed on them. As regards the case of Amarjit Singh (supra), it would be seen that in that case it was stated that no offence under Section 5 of the Immoral Traffic (Prevention) Act was made out. As regards the case of Balwinder Kaur @ Pinki @ Balwindro (supra), the Court found that no raid had been conducted. In the circumstances, no reliance can be placed on these two judgments also.

Learned Assistant Advocate General has argued that merely because the petitioner was not arrested from the spot cannot be a ground for exculpation since the house where the raid was conducted is in the name of daughter of the petitioner. Secondly, the two girls in their statements under Section 161 Cr.P.C. (who are stated to be Bengali) have unequivocally stated that the petitioner induced them to go with him on the pretext of getting them jobs but he pushed them into the flesh trade.

It is trite to say that human trafficking has assumed epidemic proportions. One of the aftermaths of every natural tragedy is that hapless women are forced into prostitution. This is even otherwise rife in areas where there is extreme poverty. The argument that the custodial

interrogation of the petitioner is essential cannot be said to be unreasonable in these circumstances. The fact that no other case is pending against the petitioner to my mind is neither here nor there.

In the circumstances, the petition is dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

December 11, 2015

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**(AJAY TEWARI)
JUDGE**