

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

Criminal Misc. No. M- 50001 of 2017 (O&M)

Date of decision : February 23, 2018

TayyubPetitioner

Versus

State of HaryanaRespondent

Criminal Misc. No. M- 42336 of 2017 (O&M)

ParvejPetitioner

Versus

State of HaryanaRespondent

Criminal Misc. No. M- 47665 of 2017 (O&M)

ArshadPetitioner

Versus

State of HaryanaRespondent

Criminal Misc. No. M- 40436 of 2017 (O&M)

AaminPetitioner

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Munfaid Khan, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Saleem Ahmed, Advocate
for the complainant.

LISA GILL, J.

This order shall dispose of CRM-M- 50001, 42336, 47665 and 40436 of 2017.

Petitioners in all the above said petitions seek the concession of anticipatory bail in FIR No. 266 dated 06.07.2017 under Sections 306, 34 IPC registered at Police Station Tauru, District Nuh.

It is submitted that all the petitioners have been falsely implicated in this case registered at the instance of the complainant – Jakir. As per the allegations in the complaint, the complainant's sister Mamuna had two sons and a daughter – Najma. It is alleged that petitioner – Tayyub Hussain kidnapped the complainant's niece about two years ago. She was recovered from Alwar, Rajasthan. Thereafter, petitioner – Tayyub Hussain pressurised the complainant's sister to hand over her daughter to him and on her refusal threatened her with dire consequences. FIR No. 35/2017 was falsely registered against the complainant's nephew and others. Another FIR under Section 376 IPC, it is stated, was also registered against another nephew of the complainant. False applications were given by the petitioner – Tayyub. Due to this reason, the complainant sister used to remain very upset. The complainant's sister alongwith her children came to the complainant's house on 30.06.2017. On 03.07.2017, petitioner – Tayyub Hussain alongwith his brother-in-law Arshad (petitioner in CRM-M-47665-2017) arrived at the complainant's house and threatened his sister Mamuna, asking her to hand over her daughter. Thereafter, on 04.07.2017, when his sister (deceased) and her son Azad were present in Court of Sub Divisional Magistrate, Nuh, they were threatened by the petitioner – Tayyub Hussain, Aamin and Arshad. It is averred that due to the threats meted out by all the accused persons, the complainant's sister committed suicide after imbibing some poisonous substance. FIR No. 266 dated 06.07.2017 was, thus, registered on the said allegations.

Learned counsel for the petitioners argues that all the petitioners have been falsely implicated in this case. In fact, marriage was solemnised by the petitioner – Tayyub Hussain with the daughter of the deceased on 15.01.2015. Nikah namma as well as voter list is available with the petitioner to reflect the same. Wife of the petitioner – Tayyub Hussain was not being allowed to join his company and under pressure FIR No. 71 dated 11.07.2017 under Sections 376 and 306 IPC was got registered at the instance of Najma (purported to be his wife). It is contended that the said FIR was investigated and it was found that the allegations therein were incorrect and cancellation report has been recommended. Arshad (petitioner in CRM-M-47665-2017) has been involved as he is the brother-in-law (brother of the first wife of Tayyub). Parvej (petitioner in CRM-M-42336-2017) is the son of Tayyub. Amin (petitioner in CRM-M-40436-2017) has been falsely implicated in this matter because his daughter had registered FIR under Sections 376D, 342 IPC against Aslam son of the deceased Mamuna and others.

It is further submitted that co-accused Waseem son of the petitioner – Tayyub had approached this Court seeking bail pending trial but the same was dismissed on 29.08.2017. The Hon'ble Supreme Court vide order dated 06.12.2017 in SLP (Crl.) No. 7210/2017 (Annexure P-1 with CRM-M-50001-2017 has, however, afforded the concession of anticipatory bail to the said accused Waseem. It is further submitted that it is debatable that any offence punishable under Sections 306, 34 IPC is made out against the petitioners. It is, thus, prayed that these petitions be allowed.

Learned counsel for the complainant as well as the State has opposed these petitions while submitting that specific allegations have been

levelled against the present petitioners. It is submitted that FIR registered at the instance of the daughter of Aamin has infact been cancelled and FIR No. 37 has not yet been cancelled. However, it is undeniable that the Hon'ble Supreme Court vide order dated 06.12.2017 has afforded the concession of anticipatory to the co-accused Waseem.

There are no allegations on behalf of the State that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow these petitions. In the event of their arrest, petitioners – Tayyub, Parvej, Arshad and Aamin shall be released on bail to the satisfaction of Investigating Officer/Arresting officer. They shall appear before the Investigating agency as and when required. Petitioners shall comply with the conditions stipulated in Section 438(2) Cr.P.C.

It is, however, clarified that the petitioners shall not try to contact the complainant/any of the witnesses in any manner - directly or indirectly. Any such infraction on the part of the petitioners shall entail cancellation of their bail.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

February 23, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No