

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

211

CRM-M-30106-2019

Date of decision: 15.11.2019

Shubhankar Gupta

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Shanti Narayan, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

ARUN KUMAR TYAGI, J (ORAL)

Prayer in this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") is for grant of anticipatory bail to the petitioner in case FIR No.0254 dated 15.06.2019 registered under Section 380 of the Indian Penal Code, 1860 at Police Station Kurukshetra University, District Kurukshetra.

While issuing notice of motion on 18.07.2019, a Coordinate Bench of this Court has granted the interim anticipatory bail to the petitioner with direction to join the investigation.

Learned State Counsel has appeared on behalf of the respondent-State and opposed the bail application.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner is a student and he has been falsely implicated in the present case for having committed theft. The petitioner has joined the investigation and his custodial interrogation is not necessary for effecting any recovery as he did not commit any theft.

On the other hand, learned State counsel has argued that

the petitioner had committed theft of the wallet and other documents of the complainant as covered by the CCTV footage and on instructions from SI Mahipal, has acknowledged that in compliance with order dated 18.07.2019 passed by the Coordinate Bench of this Court, the petitioner has joined the investigation but the recovery of the wallet and documents could not be made as the petitioner in his disclosure statement stated to have thrown the same in the canal.

In view of the facts and circumstances of the case and also the fact that the petitioner is a student, offences are triable by Judicial magistrate 1st Class and recovery cannot be effected by custodial interrogation of the petitioner but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the concession of anticipatory bail.

Therefore, the petition is allowed and order dated 18.07.2019 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

In case of commission of any similar offence by the petitioner, bail granted in this case to the petitioner shall also liable to be cancelled on application to be filed in this regard.

15.11.2019

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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