

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

204

**CRM-M-24975-2020
Date of decision: 10.12.2020**

Vivak

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Devender Kumar, Advocate for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for respondent No.1-State.

Respondent No.2 did not appear
despite service.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of anticipatory bail in case FIR No.143 dated 15.05.2020 registered under Sections 120-B, 323, 341 and 506 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sadar Jind, District Jind to which Section 325 of the IPC and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short, "the SCST Act") were added later on.

While issuing notice of motion on 28.08.2020, this Court had granted the interim anticipatory bail to the petitioner with direction to join the investigation.

The petition has been opposed by the learned State

Counsel in terms of reply filed by way of affidavit of Sadhu Ram, Deputy Superintendent of Police, Jind.

Notice of the petition was also given to respondent No.2 who has been served but none has appeared on his behalf.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The alleged occurrence took place in the intervening night of 8/9.5.2020 and the complainant was discharged from hospital on 12.05.2020 but the FIR was registered on 15.05.2020. There is inordinate and unexplained delay in lodging of the FIR. There is no allegation in the FIR as to making of any casteist remarks. There is nothing on record to show that the alleged occurrence took place with the knowledge or due to reason of caste of the complainant. Prima facie offence under Section 3(2)(v) of the SCST Act is not made out against the petitioner. In compliance with order dated 28.08.2020, the petitioner has joined the investigation.

Learned State Counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from HC Mahender Singh, acknowledged that in compliance with order dated 28.08.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case is not required for effecting any recovery.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tempering with evidence or criminally intimidating the prosecution witnesses but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 28.08.2020 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.

10.12.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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