

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

203

CRM-M-153-2021

Date of decision: 05.03.2021

Mohini Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Arshdeep Singh Sra, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
for the respondent-State.

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.225 dated 19.11.2020 registered under Sections 323 and 354 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Nathana, District Bathinda.

While issuing notice of motion on 07.01.2021, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case at the instance of the complainant due to matrimonial dispute between the petitioner and the complainant. The complainant is a lady of quarrelsome nature and usually fights with the petitioner and

neighbours. The complainant left the matrimonial home without any just cause. The petitioner also filed petition under Section 9 of the Hindu Marriage Act, 1955 at Hisar Courts for restitution of conjugal rights. The offence alleged to have been committed by the petitioner as per the allegations made in the FIR is bailable as the offence punishable under Section 354 of the IPC, which is non-bailable, is attributed to his father. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy, Mr. P.S. Walia, Asstt. A.G., Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 05.03.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim anticipatory bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which he shall not be entitled to the protection of interim anticipatory bail allowed to him."

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

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

Learned Counsel for the petitioner has, while reiterating submissions made earlier, submitted that in compliance with order dated 07.01.2021, the petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

On the other hand, 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 ASI Surjit Singh, acknowledged that in compliance with order dated 07.01.2021 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required in the case.

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 tampering 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 07.01.2021 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.

05.03.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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