

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

206

**CRM-M-1768-2020
Date of decision: 09.08.2021**

Mubarik

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Rosi, Advocate
for the petitioner.

Mr. Manish Dadwal, Asstt. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

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

The petitioner has filed this 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.261 dated 09.10.2019 registered under Sections 379, 411 and 201 of the Indian Penal Code, 1860 at Police Station Pinangwan, District Nuh.

While issuing notice of motion on 16.01.2020, 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 was falsely implicated on the basis of secret information. The petitioner has no concern with the plot in question and has no personal or professional relation with Rizwan. The petitioner is ready to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Arjun Singh Yadav, Asstt.A.G., Haryana accepts notice on behalf of the respondent-State. Copy of the paper book has been supplied to the learned State Counsel, who seeks time to complete his instructions.

Adjourned to 17.03.2020.

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 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 bail allowed to him."

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Ashok Kumar, HPS, Deputy Superintendent of Police, Punhana, District Nuh in the Registry of this Court which is taken on record.

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 16.01.2020, 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 Davinder, acknowledged that in compliance with order dated 16.01.2020 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 16.01.2020 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.

09.08.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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