

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

102+209

**CRM-M-12193-2021 (O&M)
Date of decision : 16.07.2021**

Harpreet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rishabh Gupta, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

Mr. Arvind Kashyap, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

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

CRM-19303-2021

For the reasons mentioned in the application, the same is allowed and the applicant/complainant is allowed to be impleaded as respondent No.2 in the present petition.

CRM-19302-2021

For the reasons mentioned in the application, the same is allowed and amended memo of parties and reply filed by respondent No.2-complainant are taken on record.

CRM-19299-2021

For the reasons mentioned in the application, the same is allowed and respondent No.2-complainant is exempted from filing

certified/true typed copies of Annexures R-2/1 to R-2/3 and photocopies of the same are taken on record.

CRM-M-12193-2021

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.80 dated 06.07.2020 registered under Sections 353, 186, 323, 506, 427, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station Badali Ala Singh, District Fatehgarh Sahib to which Sections 332 and 308 of the IPC were added lateron (offence under Section 308 of the IPC held not made out vide order dated 24.02.2021).

While issuing notice of motion on 17.03.2021, 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 case. The petitioner was not named in the FIR. As per the prosecution version, the petitioner was not armed with any weapon and no injury much less the injury attracting Section 308 of the IPC is attributed to the petitioner. Co-accused Amandeep Singh @ Aman and Mandeep Singh have already been granted regular bail vide order dated 02.12.2020 passed by this Court. The petitioner is ready to join the investigation and his custodial interrogation is not required in the case.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr.P.S. Walia, Asstt. AG, Punjab has appeared and

accepted notice on behalf of the respondent-State.

At this stage, Mr. Arvind Kashyap, Advocate has appeared on behalf of the complainant.

Learned State Counsel and learned Counsel for the complainant seek time to file reply.

Adjourned to 16.07.2021.

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 respondent No.1-State in terms of reply filed by way of affidavit of Sh. Sukhminder Singh Chauhan, Deputy Superintendent of Police, Bassi Pathana, District Fatehgarh Sahib in the Registry which is taken on record.

The petition has also been opposed by respondent No.2-complainant in terms of reply filed.

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

Learned Counsel for the petitioner has, while reiterating submissions made on 17.03.2021, submitted that in compliance with order dated 17.03.2021, the petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

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 S.I. Raman Singh, acknowledged that in compliance with order dated 17.03.2021 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required in the case.

Learned Counsel for the complainant has submitted that even though the petitioner was not named in the FIR but in the FIR it was mentioned that three other persons participated in commission of the alleged offences. In para No.4 of petition bearing No.CRM-M-2022-2020 filed in this Court the petitioner admitted his presence on the spot at the time of the occurrence. The petitioner actively participated in commission of the subject offences. Therefore, the petitioner does not deserve grant of anticipatory bail and the present petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, role attributed to him, 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 17.03.2021 granting interim anticipatory 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.

16.07.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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