

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

216

CRM-M-28800-2021

Date of decision: 10.08.2021

Gurdeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Dilpreet Singh Gandhi, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, 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 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.119 dated 23.08.2019 registered under Section 306 of the Indian Penal Code, 1860 at Police Station Raja Sansi, Amritsar.

While issuing notice of motion on 26.07.2021, 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 under the influence of the complainant party who got false FIR registered against the petitioner without any incriminating evidence against him. Complaint regarding alleged harassment and attempt to molest was made to SHO, Police Station Raja Sansi by Pooja against Balbir

Singh but the petitioner had no role in making of the above said complaint. The deceased did not leave any suicide note mentioning the reasons why he committed suicide. The petitioner did not aid or abet commission of suicide by Balbir Singh in any manner. The petitioner is ready to join the investigation.

Notice of motion.

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

Learned State Counsel seeks time to file reply.

Adjourned to 10.08.2021.

Reply along with copies of relevant documents be filed in the Registry before that date.

It may also be observed here that in the present case, Pooja is alleged to have given written complaint to the SHO, Police Station Raja Sansi alleging that Balbir Singh used to stop her way and tried to molest her and was also compelling her to do wrong acts. Prima facie in the complaint no time, date and place of the occurrence was mentioned and even presences of any witness was not mentioned. Harassment due to the above said complaint is alleged to be the cause of suicide by Balbir Singh.

The complaint was allegedly submitted to the police on 03.08.2019 but no FIR/DDR appears to have been registered regarding the same.

*It is well settled that if any oral or written information received by the police discloses a cognizable offence then the police is bound under Section 154(1) of the Cr.P.C. to register FIR. In case such oral or written information does not disclose cognizable offence but indicates the necessity for inquiry, preliminary inquiry can be made to ascertain whether cognizable offence is made out or not but entry in DDR has to be made regarding the same as directed by Hon'ble Supreme Court in **Lalita Kumari Vs. Government of U.P. and others : 2013(4) R.C.R. (Criminal) 979**. If the oral or written information received by the police does not disclose cognizable offence then the police is bound under Section 155(1) of the Cr.P.C. to register DDR and refer the complainant to the Magistrate having jurisdiction. In any of these eventualities information received by the police has to be recorded in the books maintained by the Police in the form prescribed by the State Government.*

Senior Superintendent of Police, District Amritsar is directed to enquire into the matter and file an affidavit as to the facts and circumstances ascertained particularly whether any DDR entry was made regarding complaint made to the police by Pooja and whether any action was taken by the police on the basis thereof if yes what action

was taken by the police.

The affidavit as directed above be filed in the Registry before the date fixed.

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 in terms of affidavit of Gulneet Singh Khurana, IPS, Senior Superintendent of Police, Amritsar (Rural) filed 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 26.07.2021, 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 Gurjinder Singh, acknowledged that in compliance with order dated 26.07.2021 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required in the

case.

Vide order dated 26.07.2021, the Senior Superintendent of Police, District Amritsar was directed to enquire into the matter and file an affidavit as to the facts and circumstances ascertained particularly whether any DDR entry was made regarding complaint made to the police by Pooja and whether any action was taken by the police on the basis thereof if yes what action was taken by the police.

In compliance with the above said order, Gulneet Singh Khurana, IPS, Senior Superintendent of Police, Amritsar (Rural) has filed his affidavit dated 03.08.2021 mentioning therein that the complaint was entrusted to ASI Dilbagh Singh who has neither conducted the enquiry into the above said complaint nor registered any FIR or DDR and departmental proceedings have been initiated against him.

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 26.07.2021 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.

10.08.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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