

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

205

**CRM-M-24232-2020
Date of decision: 19.01.2021**

BharatPetitioner
Versus
State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
for the respondents.

Mr. Arnav Sood, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.200 dated 25.07.2020 registered under Sections 120-B, 386 and 506 read with Section 34 of the Indian Penal Code, 1860 at Police Station City Hoshiarpur, District Hoshiarpur.

While issuing notice of motion on 25.08.2020, Coordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and relevant part of the said order reads as under:-

"Inter alia submits that the petitioner has been falsely implicated by ASI-Pardeep Kumar as the petitioner did not give him illegal gratification demanded by him for taking action against an accused against whom the petitioner had got an FIR registered. Moreover, offence

under Section 386 IPC, is not made out as in the entire FIR, it has not been stated that any threat was given to kill the complainant or to cause him grievous injuries.

Notice of motion.

Mr. Ramdeep Pratap Singh, DAG, Punjab, accepts notice on behalf of the respondents and waives service.

Mr. Arnav Sood, Advocate, appears for the complainant and submits that a specific allegation has been made against the petitioner in the FIR and that he used to call up wife of the complainant and record the conversation. Thus, recovery of the mobile phone has to be effected from the petitioner.

A perusal of order dated 5.8.2020 passed by the learned Sessions Judge, Hoshiarpur, shows that police is already in possession of the call details and recordings. Thus, it is incorrect to argue that the recording allegedly made on the phone of the petitioner is required for further investigation. Still, if the investigating agency wants to recover mobile phone of the petitioner, it may do so and the petitioner would be bound to get the same recovered.

Adjourned to 24.11.2020

In the meantime, the petitioner is directed to join investigation with the Investigating Officer on 8.9.2020 at 10.00 a.m. and cooperate therewith. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer/SHO concerned subject to his compliance of the conditions enshrined under Section 438(2) Cr.P.C."

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

The complainant has also put in appearance through Mr. Arnav Sood, Advocate who undertakes to file his power of attorney in the Registry.

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 the submissions made on 25.08.2020, submitted that in compliance with order dated 25.08.2020, the petitioner has joined the investigation.

On the other hand, learned State Counsel and learned Counsel for the complainant have vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Nanak Singh, acknowledged that in compliance with order dated 25.08.2020 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation 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 25.08.2020 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.

19.01.2021

(ARUN KUMAR TYAGI)
JUDGE

Vinay

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