

CRM-M-25789-2020

Date of Decision: 20.04.2021

Sudesh Kumari

...Petitioner

Versus

Raman Tanwar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gaurav Verma, Advocate,
for the petitioner.

Mr. Gautam Kaile, Advocate,
for the respondents.

Mr. Munish Sharma, AAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conferencing.

On 16.12.2020, the following order had been passed by this
court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439(2) of the Cr.P.C., seeking the setting aside of the impugned order dated 14.08.2020 (copy Annexure P-1), passed by the learned Additional Sessions Judge, Hisar, granting anticipatory bail to respondent no.1, upon FIR no.628, dated 12.12.2019, having been registered at Police Station Sadar Hisar, alleging therein the commission of offences punishable under Sections 406, 420 of the IPC read with Section 120-B thereof

Pursuant to the last order passed, though in fact notice vide that order (passed on October 30, 2020), had not been issued to respondent no.1, i.e. the husband of the petitioner, however, Mr. Vijay Pal today appears for him and submits that he is willing to settle the matter with the petitioner who is his wife, with there being cross-litigation between them.

A status report has also been filed by the DSP, Hissar-II, with Mr. B.S.Virk, DAG, Haryana, pointing specifically to paragraph 6 thereof, in which it is stated by the DSP that in fact no threat was given by respondent no.1 to the petitioner and in fact it is she who wants to pressurise him.

It has further been stated that the SHO, Police Station, Hissar, never rung up the petitioner at all.

He has further stated that the custodial interrogation of respondent no.1 is not required by the police.

That being so, obviously there would be no reason to allow this petition by which the petitioner has challenged the order passed by the Addl.Sessions Judge, Hissar, on 14.08.2020, admitting respondent no.1 to anticipatory bail.

However, since counsel for the parties are both *ad idem* that the matter can be settled between the parties and all cross-litigation can be ended, the petition is not being dismissed today and is being adjourned to 26.02.2021, with the petitioner and respondent no.1 to appear before the Mediator in the Mediation and Conciliation Centre of this court to try and amicably settle their differences, on 22.01.2021.

The learned Mediator would thereafter submit his/her report to this Court before the next date of hearing.

Adjourned to 26.02.2021.

Interim order to continue till that date.”

Thereafter, on 26.02.2021, the following order had been passed

(after reproducing the earlier order):-

“Pursuant thereto, the petitioner and respondent are stated to have appeared before the learned Mediator, who has sent a report dated 19.02.2021, to the effect that the mediation proceedings did not reach any fruitful conclusion. That being so, with it already noticed in the aforesaid order dated 16.12.2020, that as per the police, the custodial interrogation of respondent no.1 herein was not required, learned counsel for the petitioner would address arguments in terms of the judgment of the Supreme Court in **M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649**, as to why this court should direct that respondent no.1 be arrested.

Adjourned to 24.03.2021. Learned counsel for the respondent would also be required to address arguments in view of the provision contained in sub-section (2) of Section 439 of the Cr.P.C., which reads as follows:-

“439. Special powers of High Court or Court of Session regarding bail.

(1) xxx xxx xxx

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.”

Today, upon query to learned counsel for the petitioner as to how the case of respondent no.1 would not be covered by the ratio of the judgment of the Supreme Court in **M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649**, he fairly submits that he would not be able to distinguish the judgment though otherwise of course he submits that respondent no.1 does not deserve to

remain on bail.

Learned State counsel, on the basis of the reply filed on behalf of the respondent State, submits that the report under Section 173(2) Cr.P.C. has been submitted to the competent court, arraigning respondent no.1 therein as an accused.

In view of the above I would see no ground to entertain this petition for cancellation of the bail granted to respondent no.1 by the learned Additional Sessions, Hissar, on 14.08.2020.

Consequently, this petition is dismissed.

However, nothing stated by this court in any of the orders passed in this petition shall be taken to be an observation by this court on the merits of the case, for or against respondent no.1, with naturally the trial court to proceed with the trial wholly on the basis of the evidence led before it.

April 20, 2021

dharamvir/

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO