

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

205

**CRM-M-26102-2020
Date of decision: 06.04.2021**

PARDEEP

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rajnikant Upadhyay, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G. Haryana
for respondent No.1-State.

None for respondent No.2.

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 grant of anticipatory bail in case FIR No. 142 dated 14.03.2020 registered under Section 379 of the Indian Penal Code, 1860 at Police Station Sadar, District Sonapat.

Vide order dated 04.09.2020, while issuing notice of motion and impleading complainant as respondent No.2, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and relevant part of the above said order reads as under:

“The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 142 dated 14.03.2020 registered under Section 379 of the Indian Penal Code,

1860 at Police Station Sadar, District Sonipat.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the FIR which was registered with undue and unreasonable delay of 2 months. The petitioner has nothing to do with the commission of offence. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy, Mr. Naveen Singh Panwar, DAG Haryana has appeared and accepted notice on behalf of the respondent-State and seeks time to complete his instructions.

Adjourned to 27.10.2020.

In view of the facts and circumstances of the case, presence of the complainant is considered to be necessary for just and proper decision of the petition and on oral request made by learned Counsel for the petitioner, complainant is ordered to be impleaded as respondent No.2. Memo of Parties be amended accordingly.

Notice to newly added respondent No.2 be issued for that date and be also given dasti, if so desired.

Status report giving requisite details regarding investigation conducted since registration of FIR with copies of police jimnies be filed on the next date of hearing.

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 status report filed by way of affidavit of Virender Singh, HPS, Deputy Superintendent of Police, Head Quarter, Sonipat.

None has appeared for respondent No.2 despite due service.

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

Learned Counsel for the petitioner, while reiterating

submissions made on 04.09.2020, has submitted that in compliance with order dated 04.09.2020, the petitioner has joined the investigation and the petitioner may be granted anticipatory bail as his custodial interrogation is not required for making any recovery.

Learned State counsel has submitted that the petitioner joined the investigation but the petitioner did not get the sale proceeds received by him on sale of the bullock in question and custodial interrogation of the petitioner is necessary. The petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

As per disclosure statement allegedly made by the petitioner he has already spent the amount of the sale proceeds received by him. Therefore the question of the recovery of the same does not prima facie arise. The question of liability of the petitioner to pay the compensation to the complainant will have to be adjudicated upon on determination of the question of his guilt or innocence on the basis of the evidence to be produced during trial.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, custodial interrogation of the petitioner not being necessary in the case and there being 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 grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 04.09.2020 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.

06.04.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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