

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

202

CRM-M-26137-2020

Date of decision: 09.02.2021

Roshni Devi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Jasneet Mehra, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

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. 260 dated 05.08.2020 registered under Sections 148, 149, 186, 307, 323, 332, 353, 427 and 447 of the Indian Penal Code, 1860 at Police Station Chandimandir, District Panchkula.

While issuing notice of motion on 04.09.2020, 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:-

"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. 260 dated 05.08.2020 registered under Sections 148, 149, 186, 307, 323, 332, 353, 427 and 447 of the Indian Penal Code, 1860 at Police Station Chandimandir, District Panchkula.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the FIR. The petitioner and her grand parents are the allottees of 1 marla plots and are in possession thereof for the last more than 50-60 years. There was no court order or order from

any Competent Authority for ejectment of the petitioner from the land. In case the possession of petitioner was claimed to be illegal, the complainant was required to approach appropriate authorities or courts for their ejectment. False allegations have been made in the FIR at the instance of the Sarpanch of the village. The prosecution is wrongly relying on resolution dated 28.07.2020 passed by Gram Panchayat Rattewali for taking action against encroachers of Panchayat land. The BDPO, Panchayat Secretary and Sarpanch were not having any orders for demolishing the house of co-accused Sant Ram and the allegations as to causing hindrance in the official work are wrong. Offence under Section 307 of the IPC is not made out and the same has been wrongly added. Allegations in the FIR have been made mainly against co-accused Jaspal, Dharampal and Sant Ram. No specific injury or criminal act is attributed to the petitioner. 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.

Learned State Counsel seeks time to file reply.

Adjourned to 08.10.2020.

Reply alongwith video footage of the incident, if any be filed on that date.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of her arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by her 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 she shall not be entitled to the protection of interim bail allowed to her."

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Raj Kumar, HPS, Assistant Commissioner of Police, Panchkula.

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 on 04.09.2020, submitted that in compliance with order dated 04.09.2020, the petitioner has joined the investigation.

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 Vinod Kumar, acknowledged that in compliance with order dated 04.09.2020 passed by this Court, the petitioner has joined the investigation and that her custodial interrogation in the present case 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 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 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 her.

09.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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