

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

210

**CRM-M-29066-2020
Date of decision: 14.01.2021**

Talim Khan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Saleem Ahmed, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

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

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.76 dated 10.03.2019 registered under Section 379-A of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station City Sohna, District Gurugram to which Section 34 of the IPC was added later on.

While issuing notice of motion on 22.09.2020 this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the said order reads as under:-

“The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.76 dated 10.03.2019 registered under Section 379- A of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station City Sohna, District Gurugram to which Section 34 of the

IPC was added lateron.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. FIR was registered on statement of Deepak regarding snatching of his mobile phone by two unknown motorcyclists. The petitioner was implicated on disclosure statement of his co-accused Salim. On trial co-accused Salim was acquitted by learned Additional Sessions Judge, Gurugram vide order dated 04.09.2019 as the complainant did not support the case of the prosecution. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy of the petition, 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 03.11.2020.

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 reply filed by way of affidavit of Sandeep Kumar, HPS, Assistant Commissioner of Police, Sohna, Gurugram in the registry 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 while reiterating submissions made on 22.09.2020 has submitted that in compliance with order dated 22.09.2020, the petitioner has joined the investigation.

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 Investigation Officer, acknowledged that in compliance with order dated 22.09.2020 passed by this Court, the petitioner has joined the investigation and that his 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 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 22.09.2020 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.

14.01.2021

Vishal

**(ARUN KUMAR TYAGI)
JUDGE**

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