

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

205

CRM-M-29477-2020

Date of decision: 07.04.2021

Dharmender

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Mehak Sawhney, Advocate
for the petitioner.

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

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 short, "the Cr.P.C") for grant of anticipatory bail in case FIR No. 207 dated 06.09.2020 registered under Sections 148, 323 and 506 read with Section 149 of the Indian Penal Code, 1860 at Police Station Chhainsa, District Faridabad.

Vide order dated 24.09.2020, the Co-ordinate Bench of this Court had while issuing notice of motion granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

" This petition is by the petitioner Dharmender aged 34 years inter alia with a prayer for grant of anticipatory bail in case FIR No. 0207 dated 06.09.2020 under Sections 148/149/323/506 IPC registered at PS Chhainsa, District Faridabad.

Learned counsel for the petitioner submits that in fact the petitioner has been falsely involved in the present

case.

Notice of motion.

On the asking, Mr. Rajiv Goel, DAG Haryana accepts notice through video conferencing.

Learned State counsel, on instructions from HC Jyoti submits that there are 5 more FIRs allegedly registered against the petitioner.

Faced with this, learned counsel for the petitioner submits that out of 5 FIRs, the petitioner stands acquitted in 4 FIRs except the present FIR which is still pending.

Learned counsel further submits that he has instructions from his client and his family members that in order to show his bona fide, the petitioner will not involve himself in any other case like the present. He is ready to give and undertaking that in case he is found involved and held guilty in any subsequent case after the present, the property papers (that he shall deposit with Investigating Officer who, in turn, shall deposit the same with the trial Court when the trial begins) worth approximately Rs. 20 lakhs which shall remain as security shall stand forfeited and the same shall be deposited in the Government Treasury.

Learned counsel for the petitioner then submits that because of COVID situation also, retaining of the petitioner behind the bars would be dangerous to his life.

Without commenting upon the merits of the case and without recording any opinion, in the peculiar facts and circumstances of the present case, this Court deems it appropriate to direct the petitioner to join the investigation and appear before the Investigating Officer.

List on 09.12.2020.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

In addition to the bail bonds/surety and in pursuance to the offer made by counsel for the petitioner, the petitioner shall hand over, within one month from today, the original property papers of Rs.20 lakhs with the Investigating Officer. He would further give an undertaking that he will not involve himself in any other case like the present and in case he is found involved and held guilty in any subsequent case after the present, the property papers (that he shall deposit with Investigating Officer who, in turn, shall deposit the same with the trial Court when the trial begins) worth approximately Rs. 20 lakhs which shall remain as security shall stand forfeited

and the same shall be deposited in the Government Treasury, which shall await further orders by the trial Court."

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

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 24.09.2020 submitted that in compliance with order dated 24.09.2020, the petitioner has joined the investigation and submitted property papers and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

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 H.C. Netarpal, acknowledged that in compliance with order dated 24.09.2020 passed by this Court, the petitioner has joined the investigation and submitted his property papers and that his custodial interrogation is not required in the present case.

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 24.09.2020 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.

07.04.2021

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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