

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

205

**CRM-M-30671-2020
Date of decision: 19.02.2021**

Isran

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ketan Gupta, Advocate for
Mr. Abhilaksh Gover, Advocate
for the petitioner.

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

Mr. Ravi Malik, Advocate for
Mr. Inderjeet Singh, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

The petitioner has filed present 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.214 dated 26.08.2020 registered under Sections 323, 342, 376, 427 and 506 of the Indian Penal Code, 1860 in Police Station Chhachhrauli, District Yamuna Nagar to which Section 325 of the IPC was added lateron.

While issuing notice of motion on 01.10.2020, 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 present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.214 dated 26.08.2020 registered under Sections 323, 342, 376, 427 and 506 of the Indian Penal Code, 1860 in Police Station

Chhachhrauli, District Yamuna Nagar to which Section 325 of the IPC was added lateron.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. There is undue and unexplained delay of two months in lodging of the FIR. There is matrimonial dispute between the complainant and her husband-Sarafat. The complainant has roped in her husband and his family members including the petitioner in false allegations of committing the alleged offences. Allegations made in the FIR as to rape of the complainant by the petitioner are vague and devoid of material particulars and have been made to pressurize for favourable settlement. Co-accused Sokat Ali has already been granted anticipatory bail by learned Additional Sessions Judge (Exclusive Court for Heinous Crime against Women), Yamuna Nagar at Jagadhri vide order dated 21.09.2020. The petitioner is ready to join the investigation.

*In support of his submissions learned Counsel for the petitioner has relied on the observations in **CRM-M-53013-2018 titled as Vishal Verma Vs. State of Haryana** where the tendency of slapping of Sections 376 and 377 of the IPC in cases arising out of matrimonial disputes was noticed.*

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.

Mr. Inderjeet Singh, Advocate has appeared on behalf of the complainant and filed his power of attorney through e-mail print out of which is taken on record.

Learned Counsel for the complainant undertakes to file his original power of attorney in the Registry.

Learned State Counsel and learned Counsel for the complainant seek time to file reply.

Adjourned to 17.12.2020.

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 respondent-State and the complainant. However, no reply has been filed by the respondent-

State or the complainant.

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

Learned Counsel for the petitioner has, while reiterating submissions made on 01.10.2020, submitted that in compliance with order dated 01.10.2020, the petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required.

On the other hand, learned State Counsel and learned Counsel for the complainant have 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 Krishan Lal, acknowledged that in compliance with order dated 01.10.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case is not required.

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 01.10.2020 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.

19.02.2021

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(ARUN KUMAR TYAGI)
JUDGE

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