

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

204

**CRM-M-31282-2020
Date of decision: 21.01.2021**

Ambuj Jain

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., 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 this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No. 82 dated 24.03.2018 under Sections 279 and 304-A of the Indian Penal Code, 1860 (for short 'the IPC') to which Sections 201, 205, 420, 464, 465, 468, 472, 193, 297, 120-B, 180 read with Section 34 of the IPC and Section 7 of the Prevention of Corruption Act, 1988 were added later registered at Police Station Civil Lines, Sonapat, District Sonapat.

While issuing notice of motion on 06.10.2020, 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 the present petition under

Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 82 dated 24.03.2018 under Sections 279 and 304-A of the Indian Penal Code, 1860 (for short 'the IPC') to which Sections 201, 205, 420, 464, 465, 468, 472, 193, 297, 120-B, 180 read with Section 34 of the IPC and Section 7 of the Prevention of Corruption Act, 1988 were added later registered at Police Station Civil Lines, Sonapat, District Sonapat.

*Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The petitioner was just doing his job of conducting the post mortem on the dead body of Satya Narain and gave his findings that he died due to head injuries. The petitioner also gave his additional findings in the post mortem report that the deceased had few stitches near his pubic area. The petitioner was named in the disclosure statement of his co-accused Pawan Bhooriya. Allegations of conducting post mortem of Satya Narain and submitting wrong report qua the same are part of FIR No. 144 dated 19.04.2019 registered under Sections 420, 464, 465, 468, 471, 201, 205 read with Section 34 of the IPC in Police Station Civil Line Sonipat. The implication of the petitioner in the present case by addition of Sections 201, 205, 420, 464, 465, 468, 472, 193, 297, 120-B, 180 read with Section 34 of the IPC and Section 7 of the Prevention of Corruption Act, 1988 is wholly unjustified, abuse of process of law and not permissible in view of the observations by Hon'ble Supreme Court in case '**T.T. Antony Versus State of Kerala 2001 (3) RCR (Criminal) 436.**' The petitioner was granted bail in the above referred FIR No. 144 dated 19.04.2019 by learned Sessions Judge, Sonipat vide order dated 03.10.2019. The petitioner is ready to join the investigation and his custodial interrogation is not necessary.*

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 10.12.2020.

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 learned State Counsel in terms of reply filed by way of affidavit of Virender Singh, HPS, Deputy Superintendent of Police, Head Quarter, Sonapat 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 has, while reiterating submissions made on 06.10.2020, submitted that in compliance with order dated 06.10.2020, 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 the investigating officer, acknowledged that in compliance with order

dated 06.10.2020 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 06.10.2020 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.

21.01.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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