

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

206

**CRM-M-36052-2020
Date of decision: 22.01.2021**

Sunder Singh @ Titu

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Johan Kumar, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for respondent No.1-State.

Mr. Nikhil Chopra, Advocate
for respondent No.2/complainant.

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.0271 dated 17.10.2020 registered under Sections 365 and 506 read with Section 34 of the Indian Penal Code, 1860 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the SCST Act") at Police Station Sarai Khawaja, District Faridabad.

While issuing notice of motion on 05.11.2020, 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.0271 dated 17.10.2020 registered under Sections 365 and 506 read with Section 34 of the Indian Penal Code, 1860 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the SCST Act") at Police Station Sarai Khawaja, District Faridabad.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The petitioner filed application for grant of anticipatory bail on which interim anticipatory bail was granted by the learned Additional Sessions Judge, Faridabad but subsequently the application was dismissed vide order dated 29.10.2020. In the reply filed by the police and before the learned Additional Sessions Judge, Faridabad it was mentioned that the complainant was not subjected to any molestation and no attempt was made to outrage her modesty. Further as per the averments made in the reply the petitioner and complainant were in mobile conversation before and after the alleged occurrence. Offences of abduction and criminal intimidation are not made out with the consequences that there is no prima facie case as to commission of offence under Section 3 of the SCST Act. 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 22.01.2021.

In view of the facts and circumstances of the case, I consider the presence of the complainant to be necessary for just and proper decision of the petition. Therefore, the complainant is ordered to be impleaded as respondent No.2. Memo of parties be amended accordingly.

Notice to newly added respondent No.2 be issued for the date fixed and be also given dasti, if so desired.

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 Moji Ram, HPS, Assistant Commissioner of Police, Sarai, Faridabad in the Registry which is taken on record.

The complainant was also impleaded as respondent No.2 who has put in appearance through Mr. Nikhil Chopra, Advocate and he undertakes to file his power of attorney in the Registry.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2 and have gone through the record.

Learned Counsel for the petitioner has, while reiterating submissions made on 05.11.2020, submitted that in compliance with order dated 05.11.2020, the petitioner has joined the investigation.

On the other hand, learned State Counsel and learned Counsel for respondent No.2/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 ACP Moji Ram, acknowledged that in compliance with order dated 05.11.2020 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 05.11.2020 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.

22.01.2021

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(ARUN KUMAR TYAGI)
JUDGE

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