

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

202

CRM-M-37153-2020

Date of decision: 15.02.2021

SMT. BIMLA

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Aditya Sanghi, 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 present petition under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.433 dated 16.08.2020 registered under Sections 307, 323, 148 read with Section 149 of the Indian Penal Code, 1860, Section 27 of the Arms Act, 1959 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Police Station Azad Nagar Hisar, District Hisar.

While issuing notice of motion on 24.11.2020 this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the order reads as under:-

“The petitioner has filed present petition under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.433 dated 16.08.2020 registered under Sections 307, 323, 148 read with Section 149 of the Indian Penal Code, 1860, Section 27 of the Arms Act, 1959 and Section 3 of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Police Station Azad Nagar Hisar, District Hisar.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. As per the prosecution version co-accused Balwan, husband of the petitioner, is alleged to have fired a shot on the complainant party which attracted the provision of Section 307 of the IPC. Co-accused Balwan has been granted regular bail by the Coordinate Bench of this Court vide order dated 12.10.2020 passed in CRM-M-31485-2020. In the FIR general and vague allegations have been made as to causing of injuries and hurling of racial abuses and there is no specific attribution to the petitioner. The petitioner is ready to join the investigation.

Pursuant to supply of advance copy of the petition, Mr. Ranvir Singh Arya, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 15.02.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of her arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by her 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 she shall not be entitled to the protection of interim bail allowed to her.”

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Joginder Sharma, HPS, Deputy Superintendent of Police, Law & Order, Hisar 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 24.11.2020 has submitted that in compliance with order dated 24.11.2020, the petitioner has joined the investigation and that her 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 SI Suresh Kumar, acknowledged that in compliance with order dated 24.11.2020 passed by this Court, the petitioner has joined the investigation and that her 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 24.11.2020 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 her.

15.02.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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