

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

210

**CRM-M-37065-2020
Date of decision: 05.02.2021**

Rajat

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rajesh Kapila, Advocate
for the petitioner.

Mr. M.S. Nagra, Asstt. A.G., Punjab
for respondent No.1-State.

Respondent No.2/complainant did not appear
despite service.

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.197 dated 08.10.2020 registered under Sections 406 and 498-A of the Indian Penal Code, 1860 in Police Station City Gurdaspur, District Gurdaspur.

While issuing notice of motion on 11.11.2020, 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.197 dated 08.10.2020 registered under Sections 406 and 498-A of the

Indian Penal Code, 1860 in Police Station City Gurdaspur, District Gurdaspur.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case on complaint of his wife on false and concocted allegations due to matrimonial dispute. Registration of present case is nothing but total misuse of process of law. The petitioner and his family members did not make any dowry demand and did not maltreat the complainant. General and vague allegations without requisite particulars as to date, month and year has been made in the FIR. The parents of the petitioner have been granted interim anticipatory bail by learned Additional Sessions Judge, Gurdaspur vide order dated 21.10.2020. The petitioner is ready to join the investigation and also to return the dowry articles, if any, in his possession.

Notice of motion.

Pursuant to supply of advance copy of the petition Mr. Rana Harjasdeep, DAG, Punjab has appeared and accepted notice on behalf of the respondent-State.

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

Learned State Counsel seeks time to file reply.

Adjourned to 05.02.2021.

Notice to newly added respondent No.2 be issued for that date and notice 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 and also to return the dowry articles, if any, in his possession to the complainant against written acknowledgment through Investigating Officer of the case. 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. However, no reply has been filed by the respondent-State.

Notice of the petition was also served on respondent No.2/complainant but she did not appear despite service.

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 11.11.2020, submitted that in compliance with order dated 11.11.2020, 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 SI Onkar Singh, acknowledged that in compliance with order dated 11.11.2020 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

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 11.11.2020 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.

05.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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