

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

202-3

**CRM-M-38082-2020
Date of decision : 16.03.2021**

Harwinder Kaur

.....Petitioner

Versus

State of Haryana

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sahil Chaudhary, Advocate
for the petitioner.

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

Mr. Premjit Singh Hundal, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the 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.33 dated 05.03.2019 registered under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 at Police Station Sadhaura, District Yamuna Nagar.

While issuing notice of motion on 23.11.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and 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.33 dated 05.03.2019 registered under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 at Police Station Sadhaura, District Yamunanagar.

Learned Counsel for the petitioner has argued that

the petitioner has been falsely implicated in the present case. The petitioner had taken loan from the Axis Bank against mortgage of her gold. The petitioner did not commit any fraud. The petitioner is also ready to repay the amounts of loan taken by her. Learned Counsel for the petitioner, on instructions from the petitioner, has submitted that the petitioner undertakes to pay 50% of the loan amount due within one month and balance 50% within two months thereafter. The petitioner is ready to join the investigation and cooperate in the investigation of the case.

Notice of motion.

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

At this stage, Mr. Premjit Hundal, Advocate has appeared and accepted notice on behalf of the complainant.

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

Adjourned to 13.01.2021.

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. and also undertaking given by her through her Counsel today 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 Sh. Ashish Chaudhary, HPS, Deputy Superintendent of Police, Bilaspur (Yamuna Nagar) on behalf of the respondent-State.

The petition has also been opposed by the complainant. However, no reply has been filed by 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 earlier, submitted that in compliance with order dated 23.11.2020, the petitioner has paid 50% of the loan amount and is ready to pay the balance amount in instalments. The petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

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. Custodial interrogation of the petitioner is necessary for thorough investigation of the case. Therefore, the petition may be dismissed.

In the present case, the petitioner has paid 50% of the loan amount and has undertaken to pay the balance amount in instalments to the complainant-Bank. The petitioner can be interrogated about the facts and circumstances of the case by joining her in investigation. Her custodial interrogation will not be necessary in the case for effecting any recovery of the amount involved.

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 necessary 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 23.11.2020 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. and undertaking given by her, failing which the protection of anticipatory bail order shall not be available to her.

16.03.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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