

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

202

CRM-M-38683-2020

Date of decision: 12.02.2021

Ajay and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sushil Sheoran, Advocate
for the petitioners.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

Mr. Vijay Sangwan, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

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

Petitioners-**Ajay and Rohit** have 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.95 dated 19.06.2020 registered under Sections 147, 148, 323, 325 and 506 read with Section 149 of the Indian Penal Code, 1860 (for short, "the IPC") in Police Station Bond Kalan, District Charkhi Dadri to which Sections 307 and 302 of the IPC were added lateron.

Vide order dated 10.12.2020, this Court had granted interim anticipatory bail to the petitioners with direction to join the investigation and the relevant part of the said order reads as under:-

"Petitioners-Ajay and Rohit have filed the present

petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.95 dated 19.06.2020 registered under Sections 147, 148, 323, 325 and 506 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station Bond Kalan, District Charkhi Dadri to which Sections 307 and 302 of the IPC were added lateron.

Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated in the case. Cross-version has been registered on statement of Jagdish from the accused party. Petitioner No.1 is alleged to have caused simple injury to Ashish while petitioner No.2 is alleged to have caused simple injury to Arun and they are not alleged to have caused any injury to deceased Suraj Bhan. Similarly placed co-accused Savitri has been granted anticipatory bail by the Co-ordinate Bench of this Court vide order dated 04.11.2020 passed in CRM-M-35835-2020. Therefore, the petitioners may be granted anticipatory bail.

Reply by way of affidavit of Bali Singh, HPS, Deputy Superintendent of Police, Charkhi Dadri on behalf of respondent-State has been filed in the registry which is taken on record.

Learned State Counsel seeks some more time to place on record copies of the relevant documents.

Adjourned to 12.02.2021.

*In the meanwhile, petitioners-**Ajay and Rohit** are directed to join the investigation as and when called upon to do so. In the event of their arrest, the petitioners shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by them to the satisfaction of the arresting officer/investigating officer. The petitioners shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which they shall not be entitled to the*

protection of interim bail allowed to them."

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Bali Singh, HPS, Deputy Superintendent of Police, Charkhi Dadri.

The petition has also been opposed by the complainant who has put in appearance through Mr.Vijay Sangwan, Advocate and he undertakes to file his power of attorney in the Registry of this Court.

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for the complainant and have gone through the record.

Learned Counsel for the petitioners has, while reiterating submissions made on 10.12.2020, submitted that in compliance with order dated 10.12.2020, the petitioners have joined the investigation and they may be granted anticipatory bail as their 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 petitioners do not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Vikas, acknowledged that in compliance with order dated 10.12.2020 passed by this Court, the petitioners have joined the investigation and that their custodial interrogation in the present case is not required in the case.

In view of the facts and circumstances of the case, nature

of accusation against the petitioners, the fact that custodial interrogation of the petitioners is not required in the case and there is no material to justify the apprehension of the petitioners 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 petitioners deserve grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 10.12.2020 granting interim bail to the petitioners is made absolute. However, the petitioners 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 them.

12.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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