

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

208

**CRM-M-39793-2020
Date of decision: 19.02.2021**

Rahul Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vishneet Singh Kathpal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab
for respondent No.1-State.

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

ARUN KUMAR TYAGI, J. (ORAL)

The petitioner has filed 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.184 dated 13.09.2020 registered under Sections 457 and 380 of the Indian Penal Code, 1860 in Police Station Khuhi Khera, District Fazilka.

While issuing notice of motion on 01.12.2020, 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 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.184 dated 13.09.2020 registered under Sections 457 and 380 of the Indian Penal Code, 1860 in Police Station Khuhi Khera, District Fazilka.

Learned Counsel for the petitioner has submitted that the above-said FIR has been registered against unknown persons. Subsequently, the complainant has

implicated the petitioner and co-accused Sukhram Singh. There was delay of 6 days in lodging of the FIR. Co-accused Sukhram Singh has been granted anticipatory bail by learned Judicial Magistrate Ist Class, Fazilka vide order dated 30.10.2020. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy, Mr. H.S. Multani, Asstt. AG, 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 17.12.2020.

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

The petition has been opposed by the respondent-State.

However, no reply has been filed by the respondent-State.

Notice of the petition was also ordered to be issued to respondent No.2-complainant who 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 01.12.2020, submitted that in compliance with order dated 01.12.2020, 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 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 ASI Jaspal Singh, acknowledged that in compliance with order dated 01.12.2020 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 01.12.2020 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.

19.02.2021

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(ARUN KUMAR TYAGI)
JUDGE

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