

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

213

CRM-M-40176-2020

Date of decision: 14.01.2021

Balwan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Ms. Geeta Sharma, DAG, 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 the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.97 dated 09.08.2020 registered under Sections 323, 452 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Machhroli, District Jhajjar to which Section 307 of the IPC was added lateron.

While issuing notice of motion on 03.12.2020 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.97 dated 09.08.2020 registered under Sections 323, 452 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Machhroli, District Jhajjar to which Section 307 of the IPC was added lateron.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The petitioner was arrested in the case on 28.09.2020 and was granted bail by the Court of Illaqa Magistrate, Jhajjar vide order dated 30.09.2020. Subsequently, Section 307 of the IPC has been added to the FIR. Injury caused to Mintu @ Manish which was

declared to be dangerous to life is attributed to co-accused Parveen. The petitioner is ready to join the investigation and his custodial interrogation is not necessary.

Notice of motion.

Pursuant to supply of advance copy, Mr. Anant Kataria, DAG, Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 14.01.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of 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.

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 03.12.2020 has submitted that in compliance with order dated 03.12.2020, the petitioner has joined the investigation.

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 Sadhu Ram, acknowledged that in compliance with order dated 03.12.2020 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 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 03.12.2020 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.

14.01.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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