

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-44697-2021

Date of Decision: 9.12.2021

Anoop @ Anuj

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. K.D.S. Hooda, Advocate, for the petitioner.

Mr. Deepak Sabharwal, Additional Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of anticipatory bail to the petitioner in a case FIR No.203 dated 9.5.2021, registered under Sections 120-B, 365, 354, 376-D, 342, 506 IPC (Section 376(2)(n) added lateron) at Police Station City Bahadurgarh, District Jhajjar.

The FIR in question was registered by the father of the deceased-victim namely, Utpal Basu, who is resident of West Bengal. It has been alleged that his daughter (name withheld) aged about 25 years was an Artist and Ornament Anosnament Designer. She was a supporter of farmers movement and the delegation of the farmers agitation union reached West Bengal on 1st April, 2021. The victim came in contact with the same as she was the supporter of this agitation. She associated herself with the activities of the delegation in West Bengal and then with the permission of the complainant, left for Delhi from Howrah on 11th April, 2021 along with delegation of Kisan Union Delegation which included the present petitioner Anoop Singh @ Anuj as well as co-accused Anil Malik etc. The complainant alleged that as told by the victim, the co-accused Anil Malik

came to the victim and he forcibly kissed her while she was in the train. On 12th April, 2021, the victim along with the delegation reached Delhi and after reaching Delhi, she narrated the incident of the train to her father on phone. She allegedly informed her father that the co-accused Anil Malik and the petitioner Anoop @ Anuj are not decent people and they were pressurizing and blackmailing her. It is further alleged that on 16th April, the victim told the complainant that she had confided in Yogita and Jagdish and that Yogita had also made a video of her statement on the same day in the presence of Jagdish. A copy of the video attached in a pen drive marked as A1 with the FIR. The complainant further alleged that the victim told on 16th and 17th April, she passed blood with urine and on hearing the same, the complainant father asked his victim daughter to take help from some woman. It was further alleged that on 18th April, the victim told the complainant that they had met lawyers called Mr. Chitwan and Mr. Amit Sangwan along with Yogita, Jagdish and one Himmat Singh Brar at Tikri itself and they told her that incident of sexual harassment would be brought to the notice of the leader of SKM. Thereafter, after few days, it is alleged that the victim called her father that she was feeling relaxed as she had her menstrual discharge and on asking by the complainant, she replied that "you men will not understand". Unfortunately, she developed mild fever on 21st April and her condition did not improve by 24th April. The complainant requested Dr. Amit Sangwan to arrange medical help for his victim daughter. On 25th April, Anil and Anoop got an idea that the victim was in touch with the leadership of SKM and they decided to remove her from Tikri. When the complainant called up the victim, he learnt that she was with Anil and Anoop and he got worried and talked to Dr. Amit Sangwan,

who informed Mr. Yadav. The victim sent her location to Mr. Yadav on whatsapp which showed that she was somewhere in Hansi, Haryana. On this Mr. Yadav intervened and asked Anil to drive back to Bahadurgarh, failing which, he would take police help if they did not come back and thus, there was a clear attempt to abduct his victim daughter. It was further alleged that in the night of 25th and 26th April, the local committee took her to PGI, Rohtak and as there was no bed, and finally she was admitted to Shivam Hospital, Bahadurgarh. She was diagnosed for COVID-19 and she was treated there but her condition remained unstable. Knowing all these, the complainant father reached Delhi on 29th April and immediately reached to meet his ailing daughter. During this meeting, the victim told her father the incidents which happened in the train and at the KSA tent during her stay. She emphatically narrated that how she was sexually assaulted by Anil Malik and Anoop Singh. She was under pressure and constant watch of Anil and Anoop at the tent. She told her father “hamara saath kharaab kaam hua hai”. The victim as alleged by the complainant asked her father that Anil and Anoop should be punished. Unfortunately, the victim died on 30th April, 2021. As the complainant was totally shattered, hence he could not take the legal action immediately after the death of his daughter and thus, lodged the FIR, subsequently.

Learned counsel for the petitioner has argued that now the challan has been presented against the accused Anil and a perusal of the statement of the witness recorded under Section 161 Cr.P.C. clearly shows that the petitioner has got nothing to do with the alleged occurrence and the police has recorded statement of Kavita Arya and Yogita Suhag, to whom the victim disclosed about the incidents, but there is nothing against the

present petitioner in their statements. Similarly, statements of Jasbir Kaur wife of Sukh Darshan Singh and Navkiran daughter of Sukh Darshan, who were taking care of the victim in the hospital and one Himmat Singh, were also recorded by the Police, wherein there is no mention about any incident of alleged rape. Even a perusal of the report under Section 173 Cr.P.C. shows that at no point of time the victim ever alleged that anybody committed rape upon her. In these circumstances, the petitioner is entitled to be enlarged on bail.

On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner and submitted that the petitioner is not entitled to any relief in view of the fact that his earlier petition bearing CRM-M-26706-2021 for the grant of anticipatory bail was dismissed vide order dated 4.8.2021. He further submits that Hon'ble the Supreme Court in G.R. Ananda Babu vs. The State of Tamil Nadu and another, SLP (Crl) 213 of 2021, held that "As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge". Learned State counsel further submits that there is no change in the circumstances and no new ground is available to the petitioner seeking the grant of anticipatory bail and as such his petition is liable to be dismissed. He has also submitted that as the petitioner is avoiding arrest even after dismissal of his earlier petition by this Court on 04.08.2021, hence the P.O. proceedings under Sections 82/83

Cr.P.C. are being initiated against the petitioner. He vehemently contends that he only change of the circumstances pleaded by the petitioner is the statements of few witnesses recorded under Section 161 Cr.P.C. but these statements were recorded on 27.05.2021 i.e. prior to the dismissal of his first petition on 04.08.2021.

I have heard learned counsel for the parties.

Admittedly, this is the second anticipatory petition filed by the petitioner. His earlier petition for the grant of anticipatory bail was dismissed by this Court vide speaking and reasoned order dated 4.8.2021. The statements being recorded under Section 161 Cr.P.C. were very much in existence even at the time of consideration of his first petition. Now, even the P.O. proceedings under Section 82/83 Cr.P.C. are being initiated against the petitioner. In these circumstances, I do not find any new ground or change in circumstances, which can be considered for grant of anticipatory bail as the Hon'ble Supreme Court in G.R. Ananda Babu's case (Supra) has held that a successive anticipatory bail application should not be entertained when the accused is absconding and not cooperating with the investigation. The present case was registered on 9.5.2021 and since then, the petitioner is absconding and not presenting himself for cooperating with the investigation. In these circumstances, I do not find any reason for the grant of anticipatory bail to the petitioner, hence, the same being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)

JUDGE

9.12.2021

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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No