

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

202-4

CRM-M-43414-2020

Date of decision: 24.02.2021

Ravinder Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Ms. Geeta Sharma, DAG, Haryana
for respondent No.1-State.

Mr. Premjit Singh Hundal, Advocate
for respondent No.2-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 120-B, 406 and 420 of the Indian Penal Code, 1860 at Police Station Sadhaura, City Yamuna Nagar, District Yamuna Nagar.

While issuing notice of motion on 22.12.2020, 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 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 120-B, 406 and 420 of the Indian Penal Code, 1860 at Police Station Sadhaura, City Yamuna Nagar, District Yamuna Nagar.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The petitioner had taken loan of Rs.2 lakhs by mortgaging his gold. The gold was assessed by the valuer on the panel of the bank but subsequently the gold is stated to be spurious. The petitioner did not commit any fraud and he himself has been cheated. The petitioner has repaid the amount of loan to the bank. The petitioner is ready to join the investigation and his custodial interrogation is not required in 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.

Learned State Counsel seeks time to file reply.

Adjourned to 24.02.2021.

In view of the facts and circumstances of the case, I consider presence of the complainant to be necessary for just and proper decision of the petition. Therefore, the complainant is ordered to be impleaded as respondent No.2. Memo of parties be amended accordingly.

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

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 learned State Counsel.

However, no reply has been filed by respondent No.1-State.

Notice of the petition was also given to respondent No.2-complainant who has put in appearance through Mr. Premjit Singh Hundal, Advocate and he undertakes to file his power of attorney in the Registry of this Court. Reply on behalf of respondent No.2-complainant has also not been filed.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2-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 22.12.2020, the petitioner has repaid the amount of the loan to the bank and 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 respondent No.2-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 repaid the amount of the loan to respondent No.2-complainant Bank. The petitioner can be interrogated about the facts and circumstances of the case by joining him in investigation. His 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 22.12.2020 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. and undertaking given by him, failing which the protection of anticipatory bail order shall not be available to him.

24.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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