

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

**CRM-M No. 19859 of 2022
Date of Decision: 10.05.2022**

Sandeep Mohil

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Narender Kaajla, Advocate, for the petitioner.

Mr. Sumit Gupta, Additional Advocate General, Haryana

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition cast under Section 438 Cr.P.C., seeks grant of anticipatory bail in case FIR No. 173 of 22.06.2021, registered at Police Station Urban Estate, Hisar, constituting therein offences under Sections 323, 34, 379-B, 452 & 506 of the IPC.

2. The incriminatory occurrence, was cell phone video photographed by the complainant. It is contended by the prosecution, that the recovery of the cell phone videography, of the incident, which occurred at the crime site, hence is imperative, as it becomes the best incriminatory evidence, especially given its becoming snatched by the bail petitioner. Therefore, the custodial interrogation of the bail applicant is asked for. The afore factum is also apparently acquiesced by the bail petitioner, in an application made by her before the investigating officer concerned. Consequently, the mobile phone of the complainant enclosing therein the videography of the incident, becomes *prima facie* a valid incriminatory evidence against the bail petitioner, and, also its recovery at the instance of the bail petitioner to the investigating officer concerned, becomes

imperative.

3. However, the bail petitioner yet has not in the afore regard hence co-operated in the investigations undertaken by the investigating officer concerned. However, if the bail petitioner is resistive to meteing co-operation(s) to the investigating officer concerned, especially appertaining to his handing over the incriminatory mobile phone, to the investigating officer concerned, thereupon, the investigating officer concerned, may proceed to add an offence under Section 201 IPC against the petitioner in the FIR (supra). Therefore, with the afore observation, and, also when the penal role assigned to the petitioner is of his, alongwith his accomplice one, Sudesh hurling abuses at the complainant. Therefore, the addition of an offence under Section 201 IPC against the bail petitioner as may arise from his being yet resistive to his ensuring at his instance the recovery of incriminatory mobile phone to the investigating officer concerned, may be, a sufficient condition, in relaxation to the otherwise normal rule, that the bail petitioner is to be not admitted to anticipatory bail unless he ensures the effectuation of recoveries at his instance, to the investigating officer concerned, hence of the relevant incriminatory evidence.

4. Consequently, given *prima-facie* the above non-severity, and, the non-heinousness of the offence concerned, and, also with the afore made observation, this Court deems it fit, and, appropriate to grant anticipatory bail to the petitioner.

5. Moreover, the learned State Counsel also submits that the co-accused, one, Sudesh, has already been granted the facility of pre-arrest bail through an order, made on 29.03.2022, by this Court, in a petition bearing

bail applicant – petitioner is also entitled to a similar treatment with the afore one Sudesh.

6. Consequently, in the event of the arrest of the bail petitioner, the investigating officer may not arrest the bail petitioner, however, subject to his furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer, and, also subject to his rendering cooperation to him, in the investigations to be carried into the offences mentioned in the present FIR. In addition, he shall not tamper with prosecution evidence nor shall influence the prosecution witnesses.

7. Disposed of.

May 10, 2022
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(SURESHWAR THAKUR)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>