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

CRM-M-33740-2021

Date of decision:29.03.2022

SUDESH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. C.M. Munjal, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. In FIR No.173 of 22.06.2021, registered at Police Station Urban Estate Hisar, District Hisar, offences constituted under Sections 323, 379-B, 452, 506, 34 of IPC, 1860 are embodied.

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 one, Sandeep, an accomplice of the bail petitioner, and, thereafter it becoming returned to 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 hers 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 hers, alongwith her accomplice one, Sandeep hurling abuses at the complainant. Therefore, the addition of an offence under Section 201 IPC against the bail petitioner as may arise from hers being yet resistive to hers ensuring at her 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 she ensures the effectuation of recoveries at her 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. Consequently, in the event of the arrest of the bail petitioner, the investigating officer may not arrest the bail petitioner, however, subject to hers furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the

satisfaction of the arresting officer, and, also subject to hers rendering co-operation to him, in the investigations to be carried into the offences mentioned in the present FIR. In addition, she shall not tamper with prosecution evidence nor shall influence the prosecution witnesses.

6. Disposed of.

29.03.2022

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(SURESHWAR THAKUR)
JUDGE

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