

CRM-M-25904-2021

**SUMIT TANWAR  
VS  
STATE OF HARYANA**

Present: Mr. Jagmohan Ghumman, Advocate  
for the petitioner.

(Through video conferencing)

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This is a petition under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in FIR No. 208 dated 14.07.2020 under Sections 395 and 34 of the IPC (Section 379-A was deleted and Section 395 added later on), registered at Police Station Sector-56, Gurugram, Haryana.

Learned counsel for the petitioner, at the very outset has referred to the order dated 01.06.2021 passed by the Additional Sessions Judge, Gurugram to submit that the order is totally non-speaking reflecting non-application of mind and lacking the art of writing an order. For a reference the entire order is reproduced below:

*“This bail application under Section 438 of Code of Criminal procedure, 1973 is filed by applicant-accused in case arising out of FIR No.208 dated 14.07.2020, under Section 395 IPC, Police Station Sector 56, Gurugram.*

*2. Notice of bail application was issued to the respondent-State. Reply filed and perused.*

*3. The learned counsel for the applicant-accused has argued that the applicant-accused has been falsely implicated in this case. It is further contended that the entire story of the prosecution is concocted and fabricated. In the end, a prayer for granting anticipatory bail to the applicant-accused has been made.*

*4. On the other hand, learned Public Prosecutor vehemently opposed the bail application by arguing*

*that there are serious allegations of offences under Section 395 IPC against the applicant-accused and he is required for custodial interrogation. It is also submitted that keeping in view the gravity of the offences committed by the applicant-accused, he does not deserve for pre-arrest bail. In the end, a prayer for dismissal of application for anticipatory bail has been made.*

*5. I have heard learned counsel for the applicant-accused and learned Public Prosecutor for the State and have gone through the record carefully.*

*6. After hearing learned counsel for the applicant-accused and the learned Public Prosecutor assisted by the investigating officer of the case, it is held that serious allegations for the commission of offences punishable under Section 395 IPC have been levelled against the present applicant-accused, therefore, he is required for custodial interrogation. Hence, without commenting upon the merits of the case, having regard to the totality of the facts and circumstances of the case including the gravity of the offence, this Court do not deem it a fit case to grant anticipatory bail to the applicant-accused. Accordingly, the anticipatory bail application filed by the applicant-accused stands dismissed. File be consigned to the record room after due compliance.”*

It is a well settled procedure of law that while passing on order or a judgment, a Judge is required to notice the facts of the FIR; the role of the person seeking bail/anticipatory bail; his antecedents and the gravity of offence committed and then form an opinion in the light of the guidelines given by Hon'ble Surpeme Court in number of judgments regarding granting or dismissing the bail/anticipatory bail.

The manner in which the order has been passed only reflects that the Additional Sessions Judge, Gurugarm has noticed that since the

offence is under Section 395 of the IPC, which is serious offence, therefore, custodial interrogation is required. On the face of it, this order is passed against the settled norms.

The brief facts of the case are that the FIR was registered at the instance of complainant-Chandan Kumar that he is a pizza delivery boy at Tossin Pizza and on 14.07.2020, he had gone to a house for delivering pizza where 05 boys were present. On seeing him, they started abusing him by saying that he has come very late and they snatched the pizza from him as well as his motorcycle. Thereafter, the complainant gave an information to the police. When the police reached at the spot, four boys had already fled away with the motorcycle, whereas, 5<sup>th</sup> boy namely Prince was arrested at the spot and during investigation, he suffered a disclosure statement giving name of the other person as Aakash, who was later on arrested.

Learned counsel for the petitioner further submits that one of the co-accused Sonu has applied for anticipatory bail before this Court and on 24.09.2020 noticing the allegation in the FIR, he was granted the concession of interim bail, which was later on confirmed on 14.01.2021 in CRM-M-29470-2020.

Learned counsel for the petitioner further submits that co-accused Sonu, Mohit and Aakash, who were arrested, have already been released on regular bail.

Notice of motion.

Mr. Deepak Kumar Grewal, DAG, Haryana, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State.

Learned State counsel does not dispute the factual position that the allegations are regarding snatching of a pizza and the motorcycle which were recovered from the co-accused who have already been arrested.

List on 12.08.2021.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

In the meantime, the Director, Chandigarh Judicial Academy, Chandigarh is directed to look into the matter and issue appropriate directions to the judicial officers about the manner by which, while passing an order on bail application, the facts in the FIR need to be reflected before forming an opinion whether bail/anticipatory bail is to be granted or declined.

**08.07.2021**  
Waseem/Chetan

**(ARVIND SINGH SANGWAN)**  
**JUDGE**



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