

Shekhar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGIPresent : Mr. Raman Goklaney, Advocate
for the petitioner.Mr. Harsimar Singh Sitta, Asstt.A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') for grant of anticipatory bail to the petitioner in case F.I.R. No. 33 dated 05.02.2020 registered under Sections 353, 186, 427, 506, 148 and 149 of the Indian Penal Code, 1860 and Section 61 of the Punjab Excise Act, 1914 at Police Station City Fazilka, District Fazilka.

Vide order dated 31.07.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation.

Learned State Counsel has appeared on behalf of the respondent-State and opposed the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case. The petitioner was not apprehended on the spot and no recovery was made from him. Recovery of 7 bottles of English liquor allegedly made from the house of the petitioner has been planted on him. There is no allegation against the petitioner that the petitioner obstructed the concerned public

servants. Co-accused Deepak has already been granted bail by learned Additional Sessions Judge, Fazilka. In compliance with order dated 31.07.2020 the petitioner has joined the investigation. Nothing is to be recovered from him and his custodial interrogation is not required in the case.

Learned State counsel has vehemently opposed the petition. However, learned State counsel has admitted that in compliance with order dated 31.07.2020 passed by this Court, the petitioner has joined the investigation and also submitted that his custodial interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case and also the fact that custodial interrogation of the petitioner is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves grant of anticipatory bail. Therefore, the petition is allowed and order dated 31.07.2020 granting interim bail to the petitioner is made absolute. 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., failing which the protection of anticipatory bail order shall not be available to him.

However, in view of Section 438 (2) (iv) read with Section 437 (3) (b) of the Cr.P.C. the petitioner is granted anticipatory bail subject to the condition that he shall not commit any similar offence under the Punjab Excise Act, 1914 after his release on bail and in case of commission of any similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

08.09.2020

Vishal

**(ARUN KUMAR TYAGI)
JUDGE**

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