

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(202)

CRM No. M-13542 of 2020

Date of Decision : -19.08.2020

Nitin Jain

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Atul Goyal, Advocate for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

(through video conferencing)

Harsimran Singh Sethi, J. (Oral)

Petitioner is seeking anticipatory bail in FIR No.133 dated 05.08.2019 under Sections 420 and 120-B IPC (Section 201 IPC added later on) registered at Police Station Punjab Agriculture University, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court on 03.06.2020. Order dated 03.06.2020 is as under:-

“The petition has been taken for hearing through video conference due to Covid-19 pandemic.

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in respect of FIR No.133 dated 05.08.2019 under Sections 420 and 120-B IPC

(Section 201 IPC added later on) registered at Police Station Punjab Agriculture University, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner submits that the present case is a case of business deal. Learned counsel for the petitioner concedes that the petitioner has purchased the goods from the complainant but states that petitioner could not make the payment, for the reason that the said goods were further sold to one Jatinder Kapoor, who did not make the payment and the petitioner was in a such a situation that he neither had the goods nor money to make the payment to the complainant for the goods purchased and, for this reason, a cheque amounting to Rs.16,00,000/- issued by the petitioner in favour of the complainant, could not be encashed. Learned counsel for the petitioner further submits that all the items, which were lying in the shop of the petitioner have been seized by the police and further, brother as well as wife of the petitioner, who are partners in the firm and are facing same FIR and identical allegations have already been granted the benefit of anticipatory bail by this Court while deciding CRM-M-50799 of 2019.

Notice of motion for 19.08.2020.

Mr. Ajay Pal Singh Gill, DAG, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition accepts notice on behalf of respondent-State. Learned State counsel concedes that items have been seized from the shop of the petitioner. He further concedes that partners in the firm Mr. Tarun Jain and wife of the petitioner, against whom, the similar allegations have been alleged by the complainant have been granted benefit of anticipatory bail by this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not disputed that co-accused of the petitioner have already been granted the benefit of anticipatory bail by this Court, which has already been confirmed as well. The allegations against the petitioner as well as Tarun Jain and his wife are identical. Learned State counsel has not pointed out any distinguishable fact and also that any recovery is to be effected from the petitioner due to which, the custodial interrogation of the petitioner is necessary. The purpose of Investigating Agency will be served, in case the petitioner is directed to join and cooperate in the investigation forthwith. The order dated 10.02.2020 passed by this Court, confirming the anticipatory bail of the similarly situated co-accused passed in CRM-M-50799 of 2019 is as under.

“This petition has been filed by the petitioners under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.0133 dated 05.08.2019 under Sections 420 and 120-B of Indian Penal Code, 1860 (Section 201 IPC added later on) registered at Police Station Punjab Agriculture University, District Police Commissionerate Ludhiana. The petitioners apprehended their arrest at the hands of Police, in the above FIR.

Learned counsel for the petitioners has invited the attention of the Court to the order dated 29.11.2019 whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioners. The said order reads as under:-

“Learned counsel for the petitioners contends that admittedly as per the complainant there were business transactions between the parties and the alleged amount of Rs.16 lacs was paid by way of cheques and upon dishonour of the same, complainant has filed a complaint under Section 138 of Negotiable Instruments Act, 1881 against the petitioners which is pending. He submits that in the given facts, custodial interrogation of the petitioners may not be necessary.

Notice of motion for 10.02.2020.

Meanwhile, the petitioners shall join the investigation and would come present as and when called for and in the event of arrest, the petitioners shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioners shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

To be heard along with CRM-M-40509-2019.”

Learned counsel for the petitioners further contends that in deference to the said order, the petitioners submitted themselves before the Police and joined the investigation. According to him, the petitioners cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel who is assisted by ASI Richard Masih does not dispute this fact that the petitioners have joined the investigation and they are not required for custodial interrogation for the time being.

Considering above, the petition is allowed and the interim bail granted by this Court vide order dated 29.11.2019 is made absolute.

Learned counsel for the petitioner submits that the petitioner is ready to join the investigation and he further undertakes that the petitioner will fully cooperate in the investigation.

The petitioner is directed to join the investigation forthwith. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer subject to the following conditions:-

(i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Sham Singh, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

In view of the above, the order dated 03.06.2020 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the Investigating Agency that petitioner is required for the investigation but is not co-operating, it will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

August 19, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? No