

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

210

CRM-M-22709-2020

Date of decision: 05.11.2020

Dharam Chand

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Deepkaran Dalal, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
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 petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.683 dated 22.10.2019 registered at Police Station Camp Palwal, Tehsil and District Palwal under Sections 148, 149, 323 and 506 of the Indian Penal Code, 1860 (for short, "the IPC") and Sections 25 of the Arms Act, 1959 to which Sections 324, 325 and 326 of the IPC were added lateron.

While issuing notice of motion on 14.08.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation.

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Anil Kumar, HPS, Deputy Superintendent of Police, HQ Palwal.

I have heard learned Counsel for the petitioner and learned State Counsel and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner was not named in the FIR. The petitioner has been falsely implicated in the case on the basis of disclosure statement of co-accused. There are no specific allegations against the petitioner. In compliance with order dated 14.08.2020, the petitioner has joined the investigation.

Learned State Counsel has vehemently opposed the petition and, on instructions from ASI Jamshed Singh, submitted that the recovery of the car and country made pistol is to be made as per the allegations made in the disclosure statements of the co-accused.

The disclosure statements of co-accused are not of any evidentiary value in the eyes of law in the absence of any independent corroboration/implication by the complainant or eye witnesses. Recovery of car is not essential for proving participation of the petitioner in the commission of crime. There is no allegation in the FIR as to carrying and use of any firm arm by the unknown persons so as to justify custodial interrogation of the petitioner for recovery thereof.

Keeping in view the nature of accusation, general allegations made in the FIR against unknown persons involved, evidence against the petitioner who was not named in the FIR and the fact that the investigation and trial are likely to take long time and there is no material to justify the reasonable apprehension of the petitioner fleeing from justice or tempering with evidence or criminally intimidating the prosecution witnesses but without meaning to

comment on merit of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 14.08.2020 granting interim bail to the petitioner is made absolute. However, 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.

05.11.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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