

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

(204)

CRM-M-23834-2020

Date of Decision: November 19, 2020

Sukhdev Singh @ Kala

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Veneet Sharma, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

The petitioner is seeking anticipatory bail in FIR No. 86 dated 18.07.2020, under Sections 18, 29 of the NDPS Act, 1985 and Section 42 of Prisons Act, 1894 registered at Police Station STF (Special Task Force), STF WING (Border Range Amritsar), District Amritsar.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 25.09.2020. Order dated 25.09.2020 is as under:-

“Present petition has been filed under Section 438 of the Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No. 86 dated 18.07.2020, under Sections 18, 29 of NDPS Act, 1985 and Section 42 of Prisons Act, 1894, registered at Police Station STF (Special Task Force), STF WING (Border Range Amritsar), District Amritsar.

Learned counsel for the petitioner submits that petitioner has been roped in the present FIR only on the basis of the disclosure statement of co-accused, namely, Arjinder

Singh @ Bhola, who was arrested from the spot and from whom the actual recovery of the contraband was done. Learned counsel for the petitioner further submits that the said co-accused has already been granted the benefit of regular bail and the petitioner is ready to join and co-operate in the investigation.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel argues that petitioner was in touch with Sultan Singh, who is the son of the co-accused, namely, Arjinder Singh @ Bhola and there are some calls which connect the petitioner with the son of the co-accused, Arjinder Singh, namely, Sultan Singh. Learned State counsel submits that the modus operandi of obtaining the contraband is to be ascertained from the petitioner, for which the custodial interrogation is necessary.

Learned counsel for the petitioner rebuts the contentions raised on behalf of the State counsel to say that the calls, which are being attributed to the petitioner, which are alleged to have been done to the son of the co-accused, namely, Sultan Singh, were of the time when the petitioner was in jail in relation another FIR and, therefore, the story which is being projected by the State, is not correct.

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

It is not denied by the respondent-State that no recovery has been done from the petitioner in the present case and the petitioner has only been roped in on the basis of the disclosure statement of the co-accused, Arjinder Singh @ Bhola from whom the actual recovery was done. It is also not disputed by the learned State counsel that the co-accused from whom the actual recovery was done, has already been extended the

benefit of regular bail. The statement of co-accused Arjinder Singh @ Bhola implicating the petitioner is yet to be proved. Further, the story being put forward of the call details between the petitioner and the son of the co-accused, Sultan Singh, who is confined in jail, is also yet to be proved. The petitioner has undertaken to cooperate in the investigation.

Keeping in view the above, the petitioner is granted the concession of anticipatory bail.

The petitioner is directed to join the investigation and cooperate with the police.

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 his/her satisfaction subject to the following conditions :

(i) That he shall make themselves 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.

Adjourned to 18.11.2020.

It is, however, made clear that in case it is found that the petitioner is not cooperating in the investigation, this Court granting the benefit of interim bail will be reviewed there and then.”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from SI Dilbagh 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.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in case he is required for the same in future as well.

In view of the above, the order dated 25.09.2020 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 cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

November 19, 2020
harsha

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