

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

206

**CRM-M-24664-2020
Date of decision: 01.10.2020**

Rashpal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. J.P.S. Sidhu, Advocate for the petitioner.

Mr. Sukhbeer Singh, 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 this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.0329 dated 05.08.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Sadar Mansa.

As per the prosecution version on 05.08.2020, the police party headed by ASI Surjit Singh conducted raid on the house of the petitioner on the basis of secret information leading to registration of the above said FIR against the petitioner and recovery of 200 litres of lahan was made from the house of the petitioner who managed to escape therefrom.

While issuing notice of motion on 27.08.2020, Coordinate Bench of 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. However, no reply has been filed by the respondent-State.

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. Recovery has been effected from the petitioner's house as such and it is the case of the prosecution that the raid was on the basis of the secret information. The petitioner was not arrested at the spot from where 200 liters of lahan was recovered. In compliance with order dated 27.08.2020, the petitioner has joined the investigation. Nothing is to be recovered from him and his custodial interrogation is not required.

Learned State counsel has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State counsel has, on instructions from SI Balbir Singh, acknowledged that in compliance with order dated 27.08.2020 passed by Coordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case, particularly 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 the grant of anticipatory bail.

Therefore, the petition is allowed and order dated 27.08.2020 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 comply with the conditions enumerated under Section 438(2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. interim anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the Punjab Excise Act, 1914 after his release on anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of anticipatory bail allowed to him.

01.10.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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