

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

207-A

CRM-M-26823-2020

Date of decision: 08.10.2020

Avtar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Jagtar Singh Sidhu, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. D.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.141 dated 30.07.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Sadar Patiala, District Patiala.

As per the prosecution version on 30.07.2020, the police party headed by ASI Balwinder 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 95 litres of lahan was made from the house of the petitioner who managed to escape therefrom.

This Court vide order dated 01.10.2020 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 in terms of short reply filed by way of affidavit of Ajaypal Singh, PPS, Deputy Superintendent of Police, Rural, Patiala, District Patiala.

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 on the basis of secret information. The petitioner was not arrested from the spot and no recovery was made from his conscious possession. The alleged recover has been planted on the petitioner. The petitioner was previously implicated in a number of false cases in which the petitioner has been acquitted although one such case is still pending. In compliance with order dated 01.10.2020, 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 ASI Balwinder Singh, acknowledged that in compliance with order dated 01.10.2020 passed by 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 concession of anticipatory bail.

Therefore, the petition is allowed and order dated 01.10.2020 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.

08.10.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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