

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

213

CRM-M-27452-2020

Date of decision: 05.11.2020

Sarabjit @ Sabba

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vishal Sharma, 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 the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.62 dated 17.05.2020 registered under Sections 61 of the Punjab Excise Act, 1914 at Police Station Kalanaur, District Gurdaspur.

As per the prosecution version on 17.05.2020, the police party headed by ASI Sarwan 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 100 Kgs of lahan was made from the house of the petitioner who managed to escape therefrom.

While issuing notice of motion on 11.9.2020, 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 status report filed by way of affidavit of Bharat Bhushan, PPS, Deputy Superintendent of Police, Kalanaur, District Gurdaspur through e-mail print out of which is taken on record.

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 falsely implicated in the case on the basis of secret information received. The petitioner was not arrested on the spot and no recovery was made from him. In compliance with order dated 11.09.2020, the petitioner has joined the investigation.

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 Satinder Pal, acknowledged that in compliance with order dated 11.09.2020 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, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or

tempering with evidence or criminally intimidating the prosecution witnesses 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 11.09.2020 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. 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.

05.11.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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