

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

101

**CRM-M-28320-2020
Date of decision : 24.11.2020**

Chhotu Ram

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., 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.270 dated 25.07.2020 registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Fatehabad, District Fatehabad.

Vide order dated 17.09.2020, a Coordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the said order reads as under:-

“The matter has been taken up for hearing through video conferencing due to COVID-19 situation.

The present petition is filed for anticipatory bail in FIR No. 270 dated 25.07.2020 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar, Fatehabad.

As per the allegations in the FIR an information was received that Soma Devi wife of Ram Kumar Bishnoi was engaged in selling of Opium and Poppy husk. A raid was conducted and 725 grams Opium was recovered.

During investigation her statement was recorded that her son (petitioner) who is a truck driver brings the Opium from Rajasthan and Madhya Pardesh and the same is sold in small quantity in the village.

Learned counsel for the petitioner submits that the

petitioner has been falsely implicated. The statement recorded of Soma Devi is not substantial piece of evidence. It is further submitted that even the recovery from the accused is of non-commercial quantity and that there is no other case registered against the petitioner.

Learned State counsel appearing on advance notice opposes the prayer made by the petitioner. It is argued that as per statement it was petitioner who brought the Opium.

Considering the facts of the case in totality, specifically that the recovery from the accused is of non-commercial quantity and the name of the petitioner has surfaced only in a statement recorded by the police, the petitioner is granted interim bail subject to joining the investigation within two weeks. He shall be bound by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 24th November, 2020.”

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

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

Learned Counsel for the petitioner has reiterated the submissions made earlier and stated that in compliance with order dated 17.09.2020, 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 Satish Kumar, acknowledged that in compliance with order dated 17.09.2020, 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.

In view of the above, the petition is allowed and order dated 17.09.2020 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 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.

24.11.2020

kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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