

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

215

CRM-M-28503-2020
Date of decision: 05.11.2020

Binder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Simrandeep S. Sandhu, 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.213 dated 14.08.2020 registered under Sections 61 of the Punjab Excise Act, 1914 at Police Station Sardulgarh, District Mansa.

As per the prosecution version on 17.05.2020, the police party headed by S/CT Gagandeep 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 150 liters of lahan was made from the house of the petitioner who managed to escape therefrom.

While issuing notice of motion on 18.9.2020, 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 short reply filed by way of affidavit of Sanjeev Goyal, PPS, Deputy Superintendent of Police, Sub-Division Sardulgarh, District Mansa.

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 has been falsely implicated in the case by the police under political pressure. The petitioner was not arrested on the spot and nothing was recovered from possession of the petitioner. Alleged recovery of 150 liters of illicit liquor from the residential house of the petitioner was planted upon him. In compliance with order dated 18.09.2020, 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 S/CT Gagandeep Singh, acknowledged that in compliance with order dated 18.09.2020 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 18.09.2020 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