

Sr.No.104

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

CRM-M-29145-2020

Date of decision:23.09.2020

Sanjeev Kumar

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. H.S.Sitta, Addl.AG, Punjab.

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed for grant of anticipatory bail to the petitioner in FIR No.50, dated 20.03.2020 registered under Sections 419, 420, 467, 471, 120-B IPC at Police Station Navi Baradari, District Police Commissionerate Jalandhar.

The allegations which are contained in the FIR are that the petitioner was arrested in FIR No.02 dated 01.01.2019 under the NDPS. Thereafter, the petitioner was granted bail in this case by the learned trial court. The petitioner absented himself even after getting the bail before the learned trial court and at the same time on the same day one person namely, Tarlok Raj appeared before the learned trial court by saying that he never

stood as surety for the petitioner in FIR No.02 dated 01.01.2019 and he came to know about this fact when he had seen his revenue record in this regard. Thereafter, learned trial court directed the Police Commissioner to conduct an inquiry in this regard and the police found that the person who appeared before the learned trial court on that day saying that he never stood surety was correct and in fact some other Tarlok had impersonated the original Tarlok Raj and the surety bonds were executed. The police in the inquiry also found that even the Nambardar who had witnessed the surety bond had also impersonated.

Consequently, on the basis of the inquiry, the present FIR No.50 dated 20.03.2020 was registered under Sections 419, 420, 467, 471, 120-B IPC at Police Station Navi Baradari, District Police Commissionerate Jalandhar against the petitioner and his brother and petitioner has filed the present petition for grant of anticipatory bail.

Learned counsel for the petitioner has argued that when the surety was executed in FIR No.02 dated 01.01.2019 he was already in jail and therefore, he was not aware as to who had furnished the security and this action was done either by the brother or his advocates who had arranged the sureties. He has further submitted that he can not be blamed for this action because he was not aware of it. He has also submitted that in the present FIR the brother of the petitioner namely, Rohit has been granted the concession of interim anticipatory bail by this Court on 13.08.2020. He has also submitted that so far as earlier FIR No.02 is concerned that he had absented himself before the learned trial court, his bail bonds were cancelled and thereafter, he had filed anticipatory bail before this Court and this Court had granted anticipatory bail to the petitioner and therefore, he is already on

bail in the earlier case i.e. FIR No.02 dated 01.01.2019. Therefore, prayed for grant of anticipatory bail in the present case as well.

Learned State counsel has vehemently opposed the present petition by arguing that in the present case it is a matter of fact that when the petitioner was granted bail in FIR No.02 dated 01.01.2019 one Tarlok Raj had stood surety for him while executing bail bonds but it has been proved that some another Tarlok had impersonated him and original Tarlok Raj had made complaint to the learned Magistrate before the learned trial court on the basis of which inquiry was instituted. He has submitted that it is a serious matter and in case such kind of practice in system is not checked, it would create havoc in the administration of judicial system. With regard to the plea of petitioner that he was in jail at the time of sureties, learned State counsel has submitted that the petitioner himself remain absented before the learned trial court and rather on the same day when actual Tarlok Raj had appeared by stating that he never stood surety and therefore, it can not said that he was not aware of the fact as to who had impersonated and who had stood surety for him. Learned State counsel has also pointed out from the order vide which the petitioner's brother namely, Rohit was granted interim anticipatory bail by this Court on 13.08.2020 in which the learned State counsel had submitted that the petitioner-Rohit was not involved in the case under NDPS Act and. He further submitted that the grant of anticipatory bail to the brother of the petitioner does not confer any vested right to the petitioner in the present FIR. He has also submitted that matter being serious in nature where the surety as well as the Nambardar both of them were impersonated by somebody and the person was enlarged on bail needs

to be investigated thoroughly and therefore, on instructions he has submitted that custodial investigation is required in the present case.

I have heard the learned counsel for the parties.

So far as the facts of the case which have been stated above the same are not in dispute that earlier the petitioner was arrested in FIR NO.02 dated 01.01.2019 and was granted bail by the learned trial court but one day, Tarlok Raj appeared before the Court and said that he had never stood surety for the petitioner and consequently inquiry was conducted by the police in which it was found that the another Tarlok Raj as well as the Nambardar who had witnessed, had impersonated, therefore, this has attained a level of a serious case. The petitioner when he was bail in earlier case in FIR NO.02 remained absent before the learned trial court on the same day when actual Tarlok Raj appeared before the trial Court and consequently his bail bonds were cancelled by the said Court. Therefore, at this stage it can not be *prima facie* said that the petitioner was not aware of as to who had stood surety for him and who had arranged the said surety. These all things are matter of investigation and would come only when further investigation is done by the police. So far as the argument raised by learned counsel for the petitioner that the petitioner has been granted anticipatory bail in FIR No. 02 dated 01.01.2019, the same does not help the petitioner because in that case his bail bonds were cancelled and he had filed a petition before this Court in which anticipatory bail was granted. Therefore, that order cannot confer any vested right in the petitioner in the present FIR where the allegations are that the sureties as well as witness had been impersonated. So far as the other arguments raised by learned counsel for the petitioner that the brother of the petitioner namely Rohit had been granted anticipatory bail in the present

case would also not carry any weight and would not help the petitioner for the grant of anticipatory bail because in the present case, the petitioner was the real beneficiary. Apart from the argument that the petitioner had been absenting himself from the trial in the aforesaid FIR NO.02, the argument raised by learned counsel for the petitioner that he was not aware of the said witness who was surety that needs to be investigated properly particularly in view of the fact that he remained absent from the proceedings before the learned trial court in FIR No.02 dated 01.01.2020.

In view of the above, I find force in the arguments raised by learned State counsel to the effect that custodial investigation would be necessary in the present case particularly taking into consideration the amplitude of seriousness in the present case. Consequently, the present petition is dismissed. However, nothing stated hereinabove, shall be construed to be an expression on the merits of the case.

23rd September, 2020

Shivani Kaushik

[JASGURPREET SINGH PURI]

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>