

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

205

CRM-M-29263-2020

Date of decision: 10.12.2020

Avtar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, 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 (first) 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.101 dated 29.08.2019 registered under Sections 61 and 78 of the Punjab Excise Act, 1914 at Police Station Cantt. Bathinda.

While issuing notice of motion on 23.09.2020, Coordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and relevant part of the order reads as under:-

"In the present petition, the petitioner has sought the relief of pre-arrest bail in the criminal case registered at Police Station Cantt., Bathinda, District Bathinda, vide FIR No.101 dated 29.08.2019 under Sections 61 and 78 of the Punjab Excise Act, 1914. He is alleged to have been found in possession of five boxes of Haryana made liquor.

Notice of motion for 06.10.2020.

Mr. Manreet Singh Nagra, AAG, Punjab, who has

joined the proceedings in pursuance of the advance copy of the petition having been sent to the respondent, accepts notice on behalf of the respondent-State. He seeks some time to file reply before addressing arguments in the present case. The same be filed on or before the date fixed with an advance copy thereof to the opposite counsel.

Meanwhile, in the event of his arrest, the petitioner shall be released on ad-interim bail subject to his furnishing the requisite bail bonds in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the Arresting Officer.

However, the petitioner shall join the investigation as and when required to do so and shall also abide by all the conditions as laid down in Section 438(2), Cr.P.C."

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 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 or his vehicle. Alleged recovery has been falsely attributed to him. In compliance with order dated 23.09.2020, the petitioner has joined the investigation and his custodial interrogation is not required in the case.

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 Gurpreet Singh, acknowledged that in compliance with order dated 23.09.2020 passed by Coordinate Bench of 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 23.09.2020 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.

10.12.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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