

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

211

**CRM-M-4525-2021
Date of decision: 22.04.2021**

Kishan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Yashpal Thakur, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, 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 short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.370 dated 19.11.2020 registered under Sections 13(1), 13(2) and 17(1) of the Haryana Gouvansh Sanrakshan and Gausamvardhan Act, 2015 and Sections 279 and 506 of the Indian Penal Code, 1860 in Police Station Bhuna, District Fatehabad.

While issuing notice of motion on 08.02.2021, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner was not apprehended on the spot. The petitioner has been implicated on the basis of disclosure

statement of co-accused truck driver Sabar Ali. No offence is made out against the petitioner. The petitioner is ready to join the investigation and his custodial interrogation would not be necessary as the recovery has already been made.

Notice of motion

Pursuant to supply of advance copy of the petition, Mr. Ranvir Singh Arya, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 22.04.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim anticipatory bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which he shall not be entitled to the protection of interim anticipatory bail allowed to him."

The petition has been opposed by the learned State Counsel in terms of status report filed by way of affidavit of Ajai Singh, HPS, Deputy Superintendent of Police, Fatehabad in the Registry of this Court 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, while reiterating submissions made earlier, submitted that in compliance with order dated 08.02.2021, the petitioner has joined the investigation and he may be granted anticipatory bail as 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. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from SI Krishan Kumar, acknowledged that in compliance with order dated 08.02.2021 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required in the case.

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 tampering 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 08.02.2021 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.

22.04.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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