

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

202

CRM-M-9209-2020

Date of decision: 14.01.2021

Amit Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Fariad Singh Virk, Advocate
for the petitioner.

Mr. Rana Harjasdeep, 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 grant of anticipatory bail in case FIR No.149 dated 24.12.2019 registered under Sections 61 of the Punjab Excise Act, 1914 at Police Station Sadar Rajpura, District Patiala.

As per the prosecution version on 17.05.2020, the police party headed by ASI Nishan Singh conducted raid and recovered 300 bottles of liquor from vehicle No.DL 4C AE 3381 but the petitioner managed to escape therefrom.

Vide order dated 22.09.2020 this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and relevant part of the said order reads as under:-

"The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of

anticipatory bail in case FIR No. 149 dated 24.12.2019 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Sadar Rajpura District Patiala.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner was not arrested on the spot and no recovery was made from him. The petitioner is not owner of the car from which the alleged recovery was made. Neither he was driving the above said car nor he was travelling in the car as passenger. The petitioner is ready to join the investigation and his custodial interrogation is not necessary.

Learned State Counsel seeks time to file reply.

Adjourned to 04.11.2020.

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 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 bail allowed to him."

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Gurvinder Singh, PPS, Deputy Superintendent of Police, Circle Rajpura, District Patiala in the Registry 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 the submissions made on 22.09.2020, submitted that in compliance with order dated 22.09.2020, the petitioner has joined the investigation.

On the other hand, 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 Avtar Singh, acknowledged that in compliance with order dated 22.09.2020 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 22.09.2020 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.

14.01.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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