

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

202

**CRM-M-19782-2020**

**Date of decision: 22.04.2021**

Suba Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Jashandeep Singh Sandhu, Advocate  
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab  
for the respondent-State.

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**ARUN KUMAR TYAGI, J. (ORAL)**

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed this 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.72 dated 08.07.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Nandgarh, District Bathinda.

While issuing notice of motion on 21.07.2020, Co-ordinate Bench of 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 contends that the petitioner is 60 years old citizen and recovery of 30 Ltrs. of illicit liquor and 40 Ltrs. of lahan is alleged to have been effected from him.*

*Notice of motion.*

*On the asking of the Court, Ms. Samina Dhir, DAG, Punjab, accepts notice on behalf of respondent-State and*

*seeks time to get instructions.*

*On a specific query put to learned State counsel, she on instructions from ASI Tarsem Singh, informs that no other case under the Excise Act, is pending against the petitioner and recovery, in this case, has been effected from his house.*

*Adjourned to 25.09.2020.*

*Meanwhile, the petitioner is directed to join the investigation as and when called by the Investigating Officer. In the event of his arrest, he shall be released on bail by the Investigating Officer on his furnishing bail bonds/sureties to his satisfaction, subject to the following conditions, as envisaged under Section 438(2) Cr.P.C:-*

*(i) that the petitioner shall make himself available for interrogation by a police officer as and when required;*

*(ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;*

*(iii) that the petitioner shall not leave India without the previous permission of the Court.*

*(iv) such other condition as may be imposed under sub section (3) of Section 437, as if the bail were granted under that section."*

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 has been falsely implicated in the case. The petitioner was not apprehended on the spot and no recovery was effected from him.

Alleged recovery of 30 litres of illicit liquor and 40 litres of lahan was falsely planted on him. In compliance with order dated 21.07.2020, 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 ASI Jaswinder Singh, acknowledged that in compliance with order dated 21.07.2020 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case 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 21.07.2020 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.

**22.04.2021**

Vinay

**(ARUN KUMAR TYAGI)**  
**JUDGE**

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