

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

208

CRM-M-22533-2020

Date of decision: 02.08.2021

SAGAR @ KAKU

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gourav Jain, Advocate
for the petitioner.

Mr. Manish Dadwal, Asstt. A.G. 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 grant of anticipatory bail in case FIR No. 89 dated 05.06.2020 registered under Sections 148, 149, 323, 342 and 365 of the Indian Penal Code, 1860 at Police Station Bhattu Kalan, District Fatehabad.

Vide order dated 13.08.2020 the Co-ordinate Bench of this Court had, while issuing notice of motion, granted interim anticipatory bail to the petitioner with direction to join the investigation and relevant part of the above said order reads as under:

“Learned counsel for the petitioner contends that as per allegations in the FIR, no injury has been attributed to the petitioner. Earlier, anticipatory bail was granted to the petitioner, but he could not join investigation and in this backdrop, his bail has now been declined vide order dated 28.07.2020 (Annexure P-1) passed by the Additional Sessions Judge, Fatehabad.

Notice of motion.

On the asking of the Court, Mr. Karan Sharma, AAG, Haryana accepts notice on behalf of respondent-State and seeks time to file reply.

Adjourned to 24.11.2020.

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, while reiterating submissions made earlier, submitted that in compliance with order dated 13.08.2020, 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 SI Sumer Chand, acknowledged that in compliance with order dated 13.08.2020 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation is not required in the present 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 13.08.2020 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 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.

02.08.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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