

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

206

CRM-M-23846-2020

Date of decision: 13.01.2021

Butta Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. J.S.Warring, 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.127 dated 12.07.2020 registered under Sections 61 of the Punjab Excise Act, 1914 at Police Station Sadar Nathana, District Bathinda.

As per the prosecution version on 08.07.2020, the police party headed by HC Jaskaran Singh on basis of secret information conducted raid at the fields and recovered 60 liters of Lahan but the petitioner fled away from the place of recovery.

On 21.08.2020, Co-ordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation.

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 not arrested on the spot and no recovery was made from him. Recovery of 60 liters of Lahan has been planted on him. In compliance with order dated 21.08.2020, the petitioner has joined the investigation and his custodial interrogation is not required.

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 Surinder Pal Singh, acknowledged that in compliance with order dated 21.08.2020 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 21.08.2020 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 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.

13.01.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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