

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

108

**CRM-M-31075-2021
Date of decision: 18.08.2021**

Sukhbir @ Monu

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Deepak Sonak, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana
for respondent No.1-State.

Respondent No.2 did not appear
despite service.

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.208 dated 12.05.2021 registered under Sections 323, 379, 427, 447, 506 and 511 read with Section 34 of the Indian Penal Code, 1860 at Police Station Narnaund, District Hisar.

While issuing notice of motion on 06.08.2021, 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 there is a civil dispute between Richhpal-father of the petitioner and his brother-Surender regarding land inherited by them and petition for partition is pending before Assistant Collector IInd Grade, Narnaund. As per

the prosecution version, the allegations against the petitioner are that the petitioner along with his co-accused forcibly entered into the land of the complainant and up-rooted the pillars and iron fencing and took away the same and threatened to kill the petitioner and his family members and took forcible possession of the land in question. The petitioner was not involved in commission of such offences. No offence under Section 379 of the IPC is made out against the petitioner. Co-accused Richhpal and Ram Diya have been granted anticipatory bail by the Coordinate Bench of this Court and by this Court vide orders dated 15.06.2021 and 08.07.2021 respectively. The petitioner is ready to join the investigation.

Notice of motion.

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

In view of the facts and circumstances of the case, presence of the complainant is considered to be necessary for just and proper decision of the petition. Accordingly, complainant is impleaded as respondent No.2. Memo of Parties be amended accordingly.

Learned State Counsel seeks time to file reply.

Adjourned to 18.08.2021.

To be shown in the urgent list.

Notice to newly added respondent No.2 be issued for that date on filing of process fee by the petitioner within three working days and notice be also given dasti, if so desired.

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. However, no reply has been filed by the respondent-State.

The complainant was ordered to be impleaded as respondent No.2 and notice was ordered to be issued to respondent No.2 vide order dated 06.08.2021 but none has appeared on behalf of

respondent No.2 despite due service.

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 06.08.2021, 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, on instructions from ASI Govind, submitted that the petitioner joined the investigation but on completion of investigation cancellation report has been prepared by the police and arrest of the petitioner or custodial interrogation of the petitioner is not required in the case.

Even though in the present case the cancellation report has been prepared by the police but the same has not yet been approved by the Superior Police Officers and has not been filed before the Court so that the question of acceptance of the same by the Court does not even arise at all. In the facts and circumstances of the case, the apprehension of the petitioner of arrest for non-bailable offence cannot be said to be unreasonable.

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 06.08.2021 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.

18.08.2021

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(ARUN KUMAR TYAGI)
JUDGE

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