

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

204

CRM-M-28983-2020

Date of decision: 07.04.2021

Balkar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Mehak Sawhney, Advocate for
Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, 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 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.119 dated 23.08.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Subhanpur, District Kapurthala.

As per the prosecution version on 23.08.2020, the police party headed by ASI Jasbir Singh conducted raid on the dera of the petitioner on the basis of secret information leading to registration of the above said FIR against the petitioner and recovery of 150 litres of lahan was made from the said dera but the petitioner managed to escape therefrom.

While issuing notice of motion on 22.09.2020, 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 the petitioner was falsely implicated in the case on the basis of secret information received. The petitioner was not arrested on the spot and no recovery was made from him. The alleged recovery of six bottles of illicit liquor and 150 ltrs of lahan has been planted on him. The petitioner is ready to join the investigation and his custodial interrogation is not required as the recovery has already been made.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Sidakmeet Sandhu, Asstt. AG, Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 29.10.2020.

Reply with requisite details and relevant documents be filed on that date. Investigating Officer of the case is also directed to remain present on that date before this Court through video conferencing.

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.

However, in view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. the petitioner is granted interim anticipatory bail subject to the condition that he shall not commit any similar offence under the Punjab Excise Act, 1914 and in case of commission of similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard."

The petition has been opposed by the learned State Counsel in terms affidavit of Ajay Gandhi, IPS, Assistant Superintendent of Police, Sub Division Bholath, District Kapurthala filed in the Registry of this Court 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 submissions made earlier, 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 Jasbir 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 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.

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.

07.04.2021

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(ARUN KUMAR TYAGI)
JUDGE

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