

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

206/1

CRM-M-29979-2020

Date of decision: 07.04.2021

Harjinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gautam Dutt, 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 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. 92 dated 08.09.2020 registered under Sections 21 (1) and 4(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 of the Indian Penal Code, 1860 at Police Station Balachour, District SBS Nagar.

Vide order dated 28.09.2020, 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 the relevant part of the said order reads as under:-

" Inter alia counsel for the petitioner submits that the petitioner had exchanged 5 kanals 5 marlas of land with Manjit Kaur vide exchange deed dated 27.08.2020 (Annexure P-2) and was levelling the land, to bring it to the same level with his adjoining land and a tractor-trolley

was being used for the said purpose. Reference is also made to the request given to the revenue authorities for entering the mutation of exchange. It is submitted that no offence as such would be made out in the facts and circumstances and the Addl. Sessions Judge misconstrued the events. It is further submitted that the petitioner is willing to join investigation.

Notice of motion.

Mr. Sewak accepts notice on behalf of the State.

In the meantime, the petitioner shall join investigation and in the event of arrest of the petitioner, he shall be released on ad-interim bail subject to the satisfaction of the investigation officer. The petitioner shall join investigation as and when required and shall comply with the conditions laid down in Section 438 (2) Cr.P.C."

The petition has been opposed by the learned State Counsel. However, no reply has been filed on behalf of 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 on 28.09.2020, submitted that in compliance with order dated 28.09.2020, 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 A.S.I. Lekhraj, acknowledged that in compliance with order dated 28.09.2020 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 28.09.2020 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 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.

07.04.2021

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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