

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

101

**CRM-M-30222-2020
Date of decision: 15.02.2021**

Sanjiv Kumar @ Sanjeev Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Simranjeet Singh Sarwara, 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 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.80 dated 01.07.2020 registered under Section 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 in Police Station Special Task Force, STF Wing, Phase-4, SAS Nagar (Mohali).

Vide order dated 24.11.2020, 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:-

"The petitioner has filed 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.80 dated 01.07.2020 registered under Section 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 in Police Station Special Task Force, STF Wing, Phase-4, SAS Nagar (Mohali).

Learned Counsel for the petitioner has submitted

that the petitioner has been falsely implicated in the case on the basis of disclosure statement of co-accused Sukhvir Singh from whose possession non-commercial quantity of heroin was allegedly recovered. The petitioner has no connection with co-accused Sukhvir Singh and alleged recovery of heroin cannot be attributed to the petitioner in any manner. Rigors of Section 37(1)(b) are not applicable qua to the petitioner. Similarly placed co-accused Jaskaran, who was also implicated by Sukhvir Singh in his disclosure statement, was found to be innocent. The petitioner is ready to join the investigation.

Learned State Counsel seeks time to comply with order dated 09.11.2020.

Adjourned to 15.02.2021.

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."

The petition has been opposed by the respondent-State in terms of status report filed by way of affidavit of Rajesh Kumar, PPS, Deputy Superintendent of Police, Special Task Force, Rupnagar Range, District SAS Nagar (Mohali).

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 24.11.2020, submitted that in compliance with order dated 24.11.2020, 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. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from

ASI Sukhwinder Singh, acknowledged that in compliance with order dated 24.11.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case 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.

In view of the above, the petition is allowed and order dated 24.11.2020 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.

15.02.2021

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

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