

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

203

**CRM-M-30643-2020
Date of decision: 21.01.2021**

Kulwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Suman Kumari, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. AG, 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.134 dated 16.09.2020 registered under Sections 307, 341, 323, 148 read with Section 149 of the Indian Penal Code, 1860 in Police Station Dhanaula, District Barnala.

While issuing notice of motion on 01.10.2020, 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 grant of anticipatory bail in case FIR No.134 dated 16.09.2020 registered under Sections 307, 341, 323, 148 read with Section 149 of the Indian Penal Code, 1860 in Police Station Dhanaula, District Barnala.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case.

The petitioner was not present on the spot. As per the prosecution version, the petitioner was not armed with any weapon and did not cause any injury. The petitioner is merely alleged in the statement of Jaskaran Kaur to have exhorted his co-accused Nabbi Singh that Jaskaran Kaur and complainant Gurpreet Singh should not be spared and should be killed. Injuries on the person of Jaswinder Kaur are attributed to co-accused Sukhwinder Singh. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Randhir Thind, DAG, Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 03.12.2020.

Reply along with copies of relevant documents i.e. MLR, X-ray report and medical opinion be filed on the date fixed. In the meanwhile, the petitioner is directed to join the investigation within 15 days. 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 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, while reiterating submissions made on 01.10.2020, submitted that in compliance with order dated 01.10.2020, 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 Gurtej Singh, acknowledged that in compliance with order dated 01.10.2020 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 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.

In view of the above, the petition is allowed and order dated 01.10.2020 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.

21.01.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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