

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

206/2

CRM-M-31414-2020

Date of decision: 07.04.2021

Raj Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Raj Kumar, Advocate
for Mr. Krishan Sehajpal, 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 at Police Station Balachaur, District SBS Nagar.

The Co-ordinate Bench of this Court had, vide order dated 07.10.2020, 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:-

" Counsel inter alia relies upon the pendency of Crl. Misc. M-29979 of 2020, Harjinder Singh vs. State of Punjab and the interim order passed on 28.02.2020 (Annexure P-2) to contend that the petitioner is also entitled for the same

interim protection. It is submitted that neither the petitioner is the owner of any tractor which was seized nor he is the driver. He has only been named due to the enmity with the Sarpanch.

Notice of motion.

Mr. Hittan Nehra, Addl. A.G., Punjab accepts notice on behalf of the State.

Adjourned to 09.12.2020.

To be heard alongwith Crl. Misc. No. M-29979 of 2020.

In the meantime, it is directed that 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 07.10.2020, submitted that in compliance with order dated 07.10.2020, 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 07.10.2020 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 07.10.2020 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.

07.04.2021

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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