

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

202-2

CRM-M-36711-2020

Date of decision: 24.02.2021

Kulwant Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sahil Chaudhary, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana
for respondent No.1-State.

Mr. Premjit Singh Hundal, Advocate
for the complainant.

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 grant of anticipatory bail in case FIR No.33 dated 05.03.2019 registered under Sections 420 and 406 read with Section 120-B of the Indian Penal Code, 1860 at Police Station Sadhaura City, District Yamuna Nagar.

While issuing notice of motion on 09.11.2020, 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 the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.33 dated 05.03.2019 registered under Sections 420 and 406 read with Section 120-B of the Indian Penal Code, 1860 at

Police Station Sadhaura City, District Yamuna Nagar.

Learned Counsel for the petitioner has submitted that the petitioner has not committed any fraud and he has been falsely implicated in the case. The petitioner had taken loan from the bank against mortgage of his gold and has repaid the entire amount due. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Arun Beniwal, DAG, Haryana has appeared and accepted notice on behalf of the respondent-State.

Mr. Jashandeep Singh, Advocate has appeared on behalf of the complainant and accepted notice and undertakes to file his power of attorney in the Registry.

Learned Counsel for the complainant has, on instructions from the concerned Bank Manager, admitted that the petitioner has paid the entire amount due.

Learned State Counsel seeks time to file reply.

Adjourned to 08.01.2021.

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 learned State Counsel in terms of reply filed by way of affidavit of Ashish Chaudhary, HPS, Deputy Superintendent of Police, Bilaspur (Yamuna Nagar) on behalf of the respondent-State.

The complainant has also opposed the petition. However, no reply has been filed by the complainant.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and have gone through the record.

Learned Counsel for the petitioner has, while reiterating submissions made earlier, submitted that in compliance with order

dated 09.11.2020, the petitioner has already made the complete payment of the amount of loan to the complainant Bank and has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

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. Custodial interrogation of the petitioner is necessary for thorough investigation of the case. Therefore, the petition may be dismissed.

Learned Counsel for the complainant has admitted that the petitioner has paid the entire amount due.

In the present case, the petitioner has already made the complete payment of the amount of loan to the complainant Bank. The petitioner can be interrogated about the facts and circumstances of the case by joining him in investigation. His custodial interrogation will not be necessary in the case for effecting any recovery of the amount involved.

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 necessary 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 09.11.2020 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.

24.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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