

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

209/3

**CRM-M-36954-2020
Date of decision: 18.01.2021**

Varinder Singh @ Lali Tihare Wala

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Salil Dev Singh Bali, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G. 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 the 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.107 dated 29.05.2020 registered at Police Station Dharamkot, District Moga under Sections 323, 452, 342, 506 and 148 read with Section 149 of the Indian Penal Code, 1860 (for short, 'the IPC') to which Sections 304, 325 and 442 of the IPC were added lateron.

While issuing notice of motion on 10.11.2020 this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the said order reads as under:-

“The petitioner has filed the 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.107 dated 29.05.2020 registered at Police Station Dharamkot, District Moga under Sections 323, 452, 342, 506 and 148 read with Section 149 of the Indian Penal Code, 1860 (for short, 'the IPC') to which Sections 304, 325 and 442 of the IPC were added lateron.

Learned Counsel for the petitioner has submitted that the petitioner was not named in the FIR registered on statement of Kuldeep Singh who died on 30.05.2020.

Subsequently, the petitioner was falsely implicated on supplementary statement dated 17.06.2020 made by Jaswinder Singh brother of first informant Kudeep Singh. As per medical opinion dated 25.07.2020 given by Emergency Medical Officer, Civil Hospital, Moga cause of death of Kuldeep Singh was congested heart failure and his death was not due to injuries sustained by him. No specific allegations were made against the petitioner in the above-said supplementary statement. Similarly placed co-accused Jaspal Singh @ Pala, Shashi Bala and Sajan Chhabra have already been granted interim anticipatory bail by the Coordinate Benches of this Court vide orders dated 28.08.2020, 07.10.2020 and 16.10.2020 passed in CRM-M-24824-2020, CRM-M-31433-2020 and CRM-M-33121-2020 respectively. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Bhupender Beniwal, Asstt. A.G., Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 18.01.2021.

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. 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 while reiterating submissions made on 10.11.2020 has submitted that in compliance with order dated 10.11.2020, the petitioner has joined the investigation.

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 Manjit Singh, acknowledged that in compliance with order dated

10.11.2020 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 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 10.11.2020 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.

18.01.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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