

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

208

**CRM-M-38592-2020
Date of decision: 08.02.2021**

Gurtej Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Arshdeep Singh Brar, 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 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.78 dated 16.10.2020 registered under Section 61 of the Punjab Excise Act, 1914 in Police Station Kotfatta, District Bathinda.

As per the prosecution version on 16.10.2020, the police party headed by Head Constable Kuldeep Singh conducted raid on the house of the petitioner on the basis of secret information leading to registration of the above said FIR against the petitioner and recovery of 5 litres of illicit liquor along with 200 litres of laahan was made from the house of the petitioner who managed to escape therefrom.

While issuing notice of motion on 23.11.2020, 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 short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.78 dated 16.10.2020 registered under Section 61 of the Punjab Excise Act, 1914 in Police Station Kotfatta, District Bathinda.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case on the basis of secret information received. The petitioner was not arrested on the spot. There is nothing on the record to prove that the house in question, from where alleged recovery of 5 litres of illicit liquor along with 200 litres of laahan was made, belongs to the petitioner. The petitioner does not have any connection with the crime. The petitioner is ready to join the investigation and his custodial interrogation is not required as the recovery has already been made.

Notice of motion.

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

Learned State Counsel seeks time to file reply.

Adjourned to 08.02.2021.

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) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. interim anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the Punjab Excise Act, 1914 after his release on interim anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of interim anticipatory bail allowed to him."

The petition has been opposed by the respondent-State in terms of short reply filed by way of affidavit of Davinder Singh, PPS, Deputy Superintendent of Police, Rural, District Bathinda in the

Registry of this Court which is taken on record.

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 23.11.2020, submitted that in compliance with order dated 23.11.2020, 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 and the petition may be dismissed.

However, learned State Counsel has, on instructions from Head Constable Kuldeep Singh, acknowledged that in compliance with order dated 23.11.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation 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.

Therefore, the petition is allowed and order dated 23.11.2020 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 comply with the conditions enumerated under Section 438(2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the Punjab Excise Act, 1914 after his release on anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of anticipatory bail allowed to him.

08.02.2021

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(ARUN KUMAR TYAGI)
JUDGE

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