

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

208

**CRM-M-38580-2020
Date of decision: 09.02.2021**

Dara Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ranbir Singh Sekhon, Advocate for
Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

Dr. Surya Parkash, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

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.518 dated 26.10.2020 registered under Sections 285 and 427 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 25 and 27 of the Arms Act, 1959 in Police Station City Fatehabad, District Fatehabad from which Section 34 of the IPC was deleted and to which Section 120-B of the IPC was added lateron.

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.518 dated 26.10.2020 registered under Sections 285 and 427 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 25 and 27 of the Arms Act, 1959 in Police Station City Fatehabad, District Fatehabad from which Section 34 of the IPC was deleted and to which Section 120-B of the IPC was added lateron.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. FIR was registered against unknown persons. As per the prosecution version co-accused Surjeet Singh @ Gopi had fired a gun shot on the car of the complainant when he parked his car in front of his house due to which rear glass of the car was broken. Co-accused Surjeet Singh @ Gopi alleged in his disclosure statement that the weapon which was used for firing at the car was given to him by the petitioner and after use, the weapon was given back to the petitioner. The disclosure statement of co-accused has no evidentiary value against the petitioner. No shell or cartridge was recovered form the spot. Incharge of scene of the crime could not substantiate the fact whether glass was broken with gun shot or not. Earlier the petitioner was falsely implicated by the complainant in murder case of Kulwant Singh, Ex MC, Fatehabad in which the petitioner was found to be innocent. The petitioner is ready to join the investigation.

Notice of motion.

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

At this stage, Dr. Surya Parkash, Advocate has appeared and accepted notice on behalf of the complainant.

Learned State Counsel has submitted that as per disclosure statement of co-accused country made pistol was given to the petitioner and recovery of country made pistol is to be made from his possession.

Learned Counsel for the complainant has submitted that the petitioner is also involved in other cases. The petitioner has threatened number of times to eliminate the complainant.

However, learned State Counsel and learned Counsel for the complainant seek time to file reply with relevant documents.

Adjourned to 01.02.2021.

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) of the Cr.P.C. that the petitioner shall make himself available for interrogation by a police officer as and when required; shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer and shall not leave India without the previous permission of the Court. 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 after his release on interim anticipatory bail the petitioner shall not commit offence under the IPC including the offence of criminal intimidation by giving any threat to the petitioner. In case of non-compliance of any of the above-said conditions, the petitioner will not be entitled to the protection of interim anticipatory bail allowed to him."

The petition has been opposed by the learned State Counsel and learned Counsel for the complainant. However, no reply has been filed by the respondent-State or 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 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 and learned Counsel for the complainant have 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 Ravinder Kumar, 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 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 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 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 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.

09.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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