

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-38547-2020
Date of decision : 01.11.2021

Jarnail Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Piyush Sharma, Advocate
for the petitioner.

Mr.A.K.Kaundal, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is the first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.195 dated 04.11.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Mamdot, District Ferozepur.

On 23.11.2020, a co-ordinate Bench of this Court was pleased to pass the following order:-

“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.195 dated 04.11.2020 registered under Section 61 of the Punjab Excise Act, 1914 in Police

Station Mamdot, District Ferozepur.

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. The alleged motorcycle does not belong 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 04.02.2021

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 abovesaid conditions, the petitioner shall not be entitled to the protection of interim anticipatory bail allowed to him.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has already joined the investigation.

Learned State counsel, on instructions of HC Om Parkash, has submitted that although the petitioner has joined investigation but he is involved in several other cases.

Learned counsel for the petitioner, in rebuttal, has submitted that as per law laid down in the judgment by the Hon'ble Supreme Court in **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”, 2012 (2) SCC 382**, the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from

the jurisdiction of the Court etc.”

Keeping in view the abovesaid facts and circumstances, more so, the fact that in the present case, the petitioner was not arrested at the spot, even the motor cycle does not belong to the petitioner and the petitioner has joined investigation and also in view of law laid down by the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi's*** case (supra), the present petition for anticipatory bail is allowed and interim order dated 23.11.2020 is made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

November 01, 2021

Davinder Kumar

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