

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

206

**CRM-M-38540-2020
Date of decision: 21.01.2021**

Sahil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Satbir Singh Gill, Advocate
for the petitioner.

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

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.652 dated 24.10.2020 registered under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") in Police Station City Sirsa, District Sirsa.

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 grant of anticipatory bail in case FIR No.652 dated 24.10.2020 registered under Sections 22 of the Narcotic

Drugs and Psychotropic Substances Act, 1985 in Police Station City Sirsa, District Sirsa.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case on the basis of disclosure statement made by his co-accused Rohtash Kumar from whom recovery of non-commercial quantity of contraband was allegedly made. The petitioner has nothing to do with the alleged recovery. Rigors of Section 37(1)(b) of the NDPS are not applicable qua the petitioner. 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.

Learned State counsel seeks time to file reply.

Adjourned to 21.01.2021.

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 Aryan Chaudhary, HPS, Deputy Superintendent of Police (HQ), Sirsa on behalf of the respondent-State in the Registry 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. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from SI Jagmeet 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 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, inapplicability of rigors of Section 37(1)(b) of the NDPS Act qua 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 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 NDPS Act 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.

21.01.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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