

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.39223 of 2020
Date of Decision: February 26, 2021

Tota Singh @ Lachhman Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gurdarshan Singh Sidhu, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.196 dated 23.09.2020, under Sections 61 and 78 Punjab Excise Act, 1914 and Section 473 IPC 1860, registered at Police Station, Talwandi Sabo, District Bhatinda. The petitioner apprehended his arrest at the hands of police in the above FIR.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 26.11.2020, whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.196 dated 23.09.2020, registered

at Police Station Talwandi Sabo, District Bathinda, under Sections 61 and 78 of the Punjab Excise Act, 1914 and Section 473 IPC.

Learned counsel for the petitioner states that the petitioner has falsely been implicated in this case. He has not been named in the FIR. Recovery has already been effected from co-accused-Lakhvir Singh alias Lakhi, on whose disclosure statement, the petitioner stands indicted in this case. Allegation against the petitioner is that the co-accused had procured the illicit liquor from the petitioner.

Notice of motion.

On the asking of this Court, Mr. Avtar Singh Sandhu, Addl. Advocate General, Punjab, on the instructions from ASI Gobind Singh, accepts notice on behalf of the respondent-State. He points out that the car from which the recovery was effected belongs to the wife of the co-accused and that there is no other case registered or pending against the petitioner.

Adjourned to 26.02.2021.

As noticed above, the recovery has already been effected. The petitioner stands indicted on the disclosure statement made by the co-accused Lakhvir Singh alias Lakhi and there is no other case pending or registered against the petitioner. Keeping in view the said facts, the petitioner deserves to be granted the concession of ad-interim anticipatory bail.

Meanwhile, the petitioner is directed to join the investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438(2) of the Code of Criminal Procedure.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the

police and joined the investigation. According to him, the petitioner cooperated with the police authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel, who is assisted by ASI Gobind Singh, does not dispute this fact that the petitioner has joined the investigation. Learned counsel, on instructions, further states that the petitioner is not required for custodial interrogation for the time being.

Considering the above, the petition is allowed and the interim bail granted by this Court vide order dated 26.11.2020 is made absolute.

February 26, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No