

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

202

**CRM-M-38918-2020
Date of decision: 17.02.2021**

Rajmal @ Kuki

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Priyannshu Kamra, 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 the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.602 dated 19.09.2020 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 in Police Station City Hansi, Haryana.

Vide order dated 16.12.2020 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.602 dated 19.09.2020 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 in Police Station City Hansi, Haryana.

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 co-accused Bachan Singh. There is no cogent evidence except the disclosure

statement regarding involvement of the petitioner in the crime. No recovery was made from his possession. Rigors of Section 37(1)(b) of the NDPS are not applicable qua the petitioner. The petitioner is not involved in any other case under the NDPS Act. The petitioner is ready to join the investigation.

Learned State counsel seeks time to file reply.

Adjourned to 17.02.2021.

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. failing which he shall not be entitled to the protection of interim bail allowed to him."

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Vinod Shankar, HPS, Deputy Superintendent of Police, Police District Hansi, District Hisar on behalf of respondent-State has been filed 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 16.12.2020, submitted that in compliance with order dated 16.12.2020, the petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

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 Nawal Singh, acknowledged that in compliance with order dated 16.12.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case is not required in the case.

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 16.12.2020 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.

17.02.2021

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

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