

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

205

CRM-M-40939-2020

Date of decision: 22.02.2021

Sukhwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vijay Lath, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
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 short, "the Cr.P.C.") for grant of anticipatory bail in case FIR No.76 dated 12.06.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Anandpur Sahib, Tehsil Sri Anandpur Sahib, District Rupnagar.

While issuing notice of motion on 21.12.2020, 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.76 dated 12.06.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Anandpur Sahib, Tehsil Sri Anandpur Sahib, District Rupnagar.

Learned Counsel for the petitioner has submitted

that the petitioner was falsely implicated. The petitioner was not arrested on the spot and no recovery was made from him. The petitioner is ready to join the investigation and his custodial interrogation is not required in the case.

Notice of motion.

Pursuant to supply of advance copy, Mr. Sandeep Kumar, DAG, Punjab has appeared and accepted notice on behalf of the respondent-State.

In view of the facts and circumstances of the case, presence of the Investigating Officer of the case is considered to be necessary for just and proper decision of the petition.

Learned State Counsel seeks time to file reply.

Adjourned to 22.02.2021.

Investigating Officer of the case is directed to remain present on that date before this Court through video conferencing.

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 above-said conditions, the petitioner shall not be entitled to the protection of interim anticipatory bail allowed to him."

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

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 submission made earlier, submitted that in compliance with order dated 21.12.2020, the petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in

the case.

On the other hand, learned State Counsel has vehemently opposed the petition and submitted that the petitioner is a habitual offender and is involved in 13 other cases. In view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Kewal Kumar, acknowledged that in compliance with order dated 21.12.2020 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation is not required for effecting any recovery.

Even though the petitioner is involved in other cases but it is not disputed that he is on bail in those cases.

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.

Therefore, the petition is allowed and order dated 21.12.2020 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 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 Punjab Excise Act, 1914 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.

22.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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