

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

206

CRM-M-42294-2020

Date of decision: 17.02.2021

Sube Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vipin Pal Yadav, Advocate
for the petitioners.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for respondent No.1-State.

None for respondent No.2-complainant.

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.357 dated 12.11.2020 registered under Sections 188, 336 and 420 of the Indian Penal Code, 1860 and Sections 21 and 22 of the Air (Prevention and Control of Pollution) Act, 1981 at Police Station Sadar Narnaul, District Mahendergarh.

While issuing notice of motion on 23.12.2020, 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 short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.357 dated 12.11.2020 registered under Sections

188, 336 and 420 of the Indian Penal Code, 1860 and Sections 21 and 22 of the Pollution Control Act, 1981 at Police Station Sadar Narnaul, District Mahendergarh.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case on the basis of disclosure statement made by co-accused. The petitioner is neither the partner nor owner of the factory. Persons present at the spot have not mentioned as to how and in what manner the petitioner was related to the factory. The petitioner was not connected with the work and conduct of the factory. The petitioner has not been involved in any criminal activities at any point of time. The petitioner is ready to join the investigation and his custodial interrogation is not required in the case. Learned State Counsel seeks some more time to file reply.

In view of the facts and circumstances of the case, presence of the complainant is considered to be necessary for just and proper decision of the petition. Therefore, the complainant is ordered to be impleaded as respondent No.2. Memo of Parties be amended accordingly.

Adjourned to 17.02.2021.

Notice to newly added respondent No.2 be issued for that date on filing of process fee by the petitioner within three working days and notice be also given dasti, if so desired.

Reply along with copies of relevant documents be filed in the Registry before that date.

In case reply is not filed on that date, concerned SHO and Investigating Officer of the case shall remain present before this Court through video conferencing on that date.

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 anticipatory 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 anticipatory bail allowed to him."

The petition has been opposed by respondent No.1-State in terms of reply filed by way of affidavit of Amarjeet Singh, HPS, Deputy Superintendent of Police (HQ), Narnaul, District Mahendergarh in the Registry of this Court which is taken on record.

Vide order dated 23.12.2020, notice was ordered to be issued to respondent No.2-complainant. As per office report, respondent No.2-complainant refused to accept the notice but a copy of the same was received by his clerk Surender Kumar. None has appeared for respondent No.2-complainant.

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 23.12.2020, submitted that in compliance with order dated 23.12.2020, 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 custodial interrogation of the petitioner is required for thorough investigation of the case and recovery of documents. Further, in view of gravity of accusation and apprehension of the petitioner fleeing from justice or tampering with evidence, the petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

In the present case the petitioner can be interrogated about facts of the case and the relevant documents can be recovered from him by joining him in the investigation again and also by seeking copies thereof from the concerned authorities.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, there being 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 23.12.2020 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