

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

209-A

CRM-M-43334-2020

Date of decision: 05.02.2021

Gurjeet Singh @ Gurjit Singh and anotherPetitioners

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Harpreet Kaur Arora, Advocate for
Mr. Rahul Vijay Singh Chugh, Advocate
for the petitioner.

Mr. M.S. Nagra, Asstt. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

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

Petitioners-Gurjeet Singh @ Gurjit Singh and Gurpreet Singh @ Gagan Singh @ Gagni @ Makhi have 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.242 dated 27.09.2020 registered under Section 61 and 78(2) of the Punjab Excise Act, 1914 in Police Station Sardulgarh, District Mansa.

While issuing notice of motion on 22.12.2020, 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:-

"Petitioners-Gurjeet Singh @ Gurjit Singh and Gurpreet Singh @ Gagan Singh @ Gagni @ Makhi have 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.242 dated 27.09.2020 registered under Section 61 and 78(2) of the Punjab Excise Act, 1914 in Police Station Sardulgarh, District Mansa.

Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated in the case on the basis of secret information received. The petitioners were not arrested on the spot and no recovery was made from them. Co-accused Jaswinder Singh @ Jassu Singh has been granted interim anticipatory bail vide order dated 11.11.2020. The petitioners are ready to join the investigation and their custodial interrogation is not required as the recovery has already been made.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. P.S. Walia, Asstt. A.G., Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel has submitted that the petitioners are involved in one more case under the Punjab Excise Act, 1914 and in view of nature of offence they do not deserve grant of anticipatory bail. However, learned State Counsel seeks time to file detailed reply.

Adjourned to 05.02.2021.

*In the meanwhile, **petitioners-Gurjeet Singh @ Gurjit Singh and Gurpreet Singh @ Gagan Singh @ Gagni @ Makhi** are directed to join the investigation as and when called upon to do so. In the event of their arrest, the petitioners shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by them to the satisfaction of the arresting officer/investigating officer. The petitioners 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 petitioners shall also be subject to the condition that they shall not commit any similar offence under the Punjab Excise Act, 1914 after their release on interim anticipatory bail. In case of non-compliance of the above-said conditions, the petitioners shall not be entitled to the protection of interim anticipatory bail allowed to them."*

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Amarjit Singh, PPS, Deputy Superintendent of Police, Sub-Division Sardulgarh, District Mansa in the Registry which is taken on record.

I have heard learned Counsel for the petitioners and learned State Counsel and have gone through the record.

Learned Counsel for the petitioners has, while reiterating submissions made on 22.12.2020, submitted that in compliance with order dated 22.12.2020, the petitioners have 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 petitioners do not deserve grant of anticipatory bail. Custodial interrogation of the petitioners is required for ascertaining the particulars as to who is the registered owner of the motorcycles and also seizure of the registration certificate. Therefore, the petition may be dismissed.

In the present case the petitioners can be joined in investigation again for ascertaining the particulars of the registered owners of the motorcycles and copies of the registration certificates can be obtained from the registered owners/concerned registration authorities and custodial interrogation of the petitioners is not essential for the said purpose.

In view of the facts and circumstances of the case, nature of accusation against the petitioners, the fact that custodial interrogation of the petitioners is not necessary in the case and there is no material to justify the apprehension of the petitioners 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 petitioners deserve the grant of anticipatory bail.

Therefore, the petition is allowed and order dated 22.12.2020 granting interim bail to the petitioners is made absolute. However, the petitioners 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 petitioners shall also be subject to the condition that they shall not commit any similar offence under the Punjab Excise Act, 1914 after their release on anticipatory bail. In case of non-compliance of the above-said conditions, the petitioners shall not be entitled to the protection of anticipatory bail allowed to them.

05.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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