

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.43369 of 2020
Date of Decision: March 22, 2021

Chiman Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Tarun Sharma, Advocate,
for the petitioner.

Ms. Monika Jalota, 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. 222 dated 31.10.2020, under Sections 21, 25 and 29 N.D.P.S.Act, 1985, registered at Police Station, Sadar Ferozepur, District Ferozepur. 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 22.12.2020, whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Learned counsel contends that 90 grams of heroin was recovered from his co-accused, namely, Balwinder Singh @ Babu and the petitioner though was named by the secret informer, but was not even present at the spot. He submits that

in the given facts, the custodial interrogation of the petitioner may not be necessary, as he is willing to join the investigation.

Notice of motion for 22.03.2021.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

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 SI Sukhwinder Singh, has stated that indeed the petitioner has joined the investigation, but she has invited the attention of the court to the fact that on the same day, another FIR No.224 was registered for the offences punishable under sections 353, 323, 186, 148, 149 IPC against the accused persons, including the petitioner as in the said occurrence, two police officials were injured. She states that in the given facts, the petitioner does not deserve the extraordinary concession of pre-arrest bail.

At this stage, learned counsel for the petitioner has invited the attention of the court to Para 3 of the order dated 15.12.2020 and contended that the investigating agency conceded that on the date of occurrence, the applicant-accused was neither apprehended at the alleged place of occurrence, nor he was present.

Learned State counsel has further pointed out that the petitioner ran away from the spot and invited the attention of the court to the observations made in Para 6 of the order dated 15.12.2020.

After hearing the learned counsel for the parties, it is clear that the State has taken conflicting stand in respect of the presence of the accused, However, considering the nature of the prayer and the fact that the recovery of the contraband was made from the co-accused Balwinder Singh, this court finds that the custodial interrogation of the petitioner may not be necessary in the present case.

Considering the above, the petition is allowed and the interim bail granted by this Court vide order dated 22.12.2020 is made absolute.

March 22, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No