

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

203

CRM-M-51996-2019

Date of decision: 01.07.2021

Sunil @ Topy

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Balkar Singh, Advocate for
Mr. Ashok Kumar Sehrawat, Advocate
for the petitioner.

Mr. Sumit Jain, 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 this 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.257 dated 04.07.2017 registered under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 at Police Station Kundli, District Sonapat.

While issuing notice of motion on 06.12.2019, 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:-

"Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case on the basis of third disclosure statement made by co-accused Mukesh. Main accused-Mukesh bindal has been granted interim bail by this Court vide order dated

15.05.2019 passed in CRM-M-4561-2019 and three other co-accused Deepak, Narender Tyagi and Darshrath Jain have been granted regular bail by this Court vide orders dated 09.04.2019, 04.04.2019 and 14.05.2019 passed in CRM-M-8938-2019, CRM-M-47348-2018 and CRM-M-18112-2019 respectively. Co-accused Mukesh also filed CRR-2561-2018(O&M) challenging the FSL report, on which this Court has ordered that the proceedings may continue but passing of final order shall remain stayed. This Court has also directed that CRR-2561-2018 be listed for hearing after decision of Criminal Appeal No.722 of 2017 (arising out of SLP (Crl.) No.6092 of 2014 titled 'Hira Singh and another Vs. Union of India and another' by Hon'ble Supreme Court of India. The petitioner is ready to join the investigation. Therefore, he may be granted interim bail.

Notice of motion.

On the asking of the Court, Mr. Ramesh Kumar Ambavta, AAG, Haryana accepts notice on behalf of the respondent-State. Copy of the paper book has been supplied to the learned State Counsel, who seeks time to complete his instructions.

Adjourned to 05.02.2020.

In the meanwhile, the petitioner is directed to appear before investigation officer within 10 days. In the event of his arrest, the petitioner 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 forfeit the benefit of interim 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 submissions made earlier, submitted that in compliance with order dated 06.12.2019 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 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 Naresh, acknowledged that in compliance with order dated 06.12.2019 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation 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 06.12.2019 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.

01.07.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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