

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

207

CRM-M-55671-2019

Date of decision: 19.07.2021

JASKARAN SINGH ALIAS KALA

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Rana Ghuman, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, 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 (first) petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 44 dated 20.07.2019 registered under Sections 22, 25, 29 and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Nandgarh, District Bathinda.

Vide order dated 11.02.2020, 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 (first) petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 44 dated 20.07.2019 registered under Sections 22, 25, 29 and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Nandgarh, District Bathinda.

Learned Counsel for the petitioner has submitted that petitioner was not arrested on the spot and no recovery was made from him. As per the prosecution version, recovery of 1540 tablets of Tramadol Hydrochloride was made from co-accused. The petitioner is registered owner of the motorcycle allegedly used in the commission of offence. Section 37(1)(b) of the NDPS Act is not applicable in the present case qua the petitioner. The

petitioner is ready to join the investigation and no recovery is to be made from him.

Learned State Counsel seeks time to file reply.

Adjourned to 23.04.2020.

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) of the Cr.P.C. failing which he shall not be entitled to the protection 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, argued that in compliance with order dated 11.02.2020, the petitioner has joined the investigation and he may be granted anticipatory bail as his custodial interrogation is not required in the case.

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 ASI Gamdoor Singh, acknowledged that in compliance with order dated 11.02.2020 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 11.02.2020 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.

19.07.2021
Vishal

(ARUN KUMAR TYAGI)
JUDGE

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