

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

201

CRM-M-308-2022

Date of decision: 31.03.2022

VINOD KUMAR

.....PETITIONER

Versus

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Amreek Singh Narwal, DAG, Haryana
for the respondent-State.

SANT PARKASH, J. (ORAL)

Prayer in this petition under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner, in case, FIR No. 562 dated 06.12.2021 registered under Section 7/10 of Essential Commodities Act 1955, Section 4/34 of the Fertilizer (Control) Order 1985 and Section 420 of the Indian Penal Code, 1860 at Police Station Tosham, District Bhiwani.

While issuing notice of motion on 07.01.2022, Co-ordinate Bench of this Court granted interim anticipatory bail to the petitioner with direction to join the investigation. Relevant part of order dated 07.01.2022 reads as under :-

“Learned counsel for the petitioner submits that the petitioner was obviously not present at the spot which is why he has not been arrested, and it was actually one Sanjay who was arrested from the spot, i.e. In Village Isharwal, whereas the petitioner is running his shop from Village Behal in the name of style of Shri Balaji Kawali Khad Bhandar.

Upon the stand of the prosecution before the learned Sessions Judge (in a similar petition filed before that court) having been pointed out to him, to the effect that the

godown from where the recovery was made is constructed in the house of the petitioner and his father, who were selling urea by using a *benami* licence holder, i.e. Kashmiri Singh, as a front, he submits that the entire story of the prosecution falls on its face even from a bare reading of the FIR, which shows that about 4 to 5 people at least were present from the raiding party, who also questioned the petitioner; but thereafter allegedly the petitioner left the premises under the cover of darkness.

He further points out that in fact the petitioner had sold the fertilizer in question to M/s Kamali Brothers in respect of which an invoice was duly issued (copy Annexure P-3).

Whereas, at this stage at least, I may not be able to attach much importance to that invoice as it can be created at any time, yet, it is difficult to believe that the petitioner and his father having been present at the spot in the presence of 4 to 5 persons of a raiding party, managed to escape from there.

Notice of motion.

Mr. Neeraj Poswal, learned AAG, Haryana, accepts notice at the asking of the court.

Looking at all the circumstances at this stage at least, the petitioner is directed to join investigation within one week and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.....”

I have heard learned Counsel for the parties and gone through the case file.

Learned Counsel for the petitioner has, while reiterating submissions made on 07.01.2022, submitted that in compliance with order dated 07.01.2022, 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, on instructions from A.S.I.

Ajmer Singh, acknowledged that in compliance with order dated

07.01.2022 passed by this Court, the petitioner has joined the investigation and that his custodial interrogation in the present case is not required.

In view of the facts and circumstances of the case, particularly the fact that custodial interrogation of the petitioner is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserve grant of anticipatory bail.

Therefore, the petition is allowed and order dated 07.01.2022 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation 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.

31.03.2022
kavneet singh

(SANT PARKASH)
JUDGE

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