

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

CRM-M-9804-2025
Reserved on: 04.03.2025
Pronounced on: 11.03.2025

Bharpoor Singh @ Deepu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S.Dadwal, Advocate
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
203	27.12.2024	Sadar Jagraon, District Ludhiana Rural	61/78(2)/1/14 of Excise Act

1. The petitioner apprehending arrest in the FIR captioned above had come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 15 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

2. That the brief facts of the case are that 27-12-2024 police party headed by ASI Gurdip Singh of PS Sadar Jagraon reached at Malik Sem in connection with patrolling and in search of suspected persons. ASI Gurdip Singh received secret information that Amritpal Singh @ Akash son of Sohan Singh resident of Lahindi Bhaini, Jagraon is habitual of selling English liquor. If nakabandi is conducted at some distance of Sem Malak, then he can be apprehended with liquor. The information was found reliable. So ASI Gurdip Singh sent ruqa to the police station and got registered FIR No. 203 dated 27-12-2024 u/s 61-78(2)/1/61 Excise Act in PS Sadar, Jagraon against Amrit Pal Singh @ Akash.

3. That thereafter the police party conducted nakabandi at some distance from Sem Malak. After some time, one person was seen coming on Activa Scooter from the side of

Jagraon. On seeing the police party that person tried to turn back his scooter. But one bag which was lying in his feet fell down on the ground. That person managed to ran away from the spot on his Aactiva Scooter. The No. of the scooter was PB-25-G-2886.

4. That then the I.O. checked the bag and recovered 12 bottles of glass made having English liquor namely Royal Stag. S/Constable Amandeep Singh No. 249 has conducted videography of the place of recovery. After making arrangement of one vacant cane, the liquor of the 12 bottles was poured in it. Then one sample was taken out of the liquor. One parcel of the sample was prepared by the I.O. and then the I.O. sealed the cane and sample parcel with his seal GS and taken into possession along with bag.

5. That after completion of investigation, the police party was going towards railway crossing katcha Malak Road, then ASI Gurdip Singh received secret information that accused Amritpal Singh @ Akash is standing on Katcha Malak at turning point of village Shakti Nagar and is waiting of someone else. If nakabandi is conducted he can be apprehended. Then the police party conducted raid at the turning point of Shakti Nagar, one person TAon of Mohan Singh resident of H. No. 5782, Agwar Lopo was standing there and the police party apprehended that person. On enquiry that person told his name as Amritpal Singh @ Akash banhindi Bhaini, Jagraon. Interrogation from him was conducted. The accused was arrested in this case.

6. That on 27-12-2024, during interrogation accused Amritpal Singh @ Akash disclosed to the L.O. that he has concealed 4 boxes of liquor Royal Stag in his rented house which is situated in front of the house of one Advocate and he can got recovered the same. On this information statement u/s 23 BSA of the accused was recorded by the I.O.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. He further submits that petitioner has been arraigned in this case based on disclosure statement which has no evidentiary value and petitioner has no concern with the recovered liquor.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“A. That the role of the petitioner in this case is that the petitioner delivered the recovered bottles of liquor to co-accused Amritpal Singh @ Akash. On the sale amount, the petitioner used to give amount of commission to co-accused.

B. That on 28-12-2024, during interrogation, co-accused Amritpal Singh Akash disclosed to the I.O. that the petitioner Bhapoor Singh Deepu has given the recovered bottles of liquor to him and he used to sell the liquor and petitioner used to give him commission on the sale amount. So interrogation of the co-accused is in evidence against the petitioner.”

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for anticipatory bail.

9. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

10. This order is subject to the petitioner's complying with the following terms.

11. The petitioner is directed to join the investigation as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. In Vikash Kumar Gupta V. The State of Bihar, SLP 11952-2024, Decided on 11-09-2024, a Three-member Bench of Hon'ble Supreme Court, while granting bail, holds,

(ii) Since the petitioner has a track record of his involvement in cases under the Excise Act, it is directed that in case the petitioner is found involved in such like cases in future, it shall be taken as a misuse of the concession of bail.

13. The petitioner shall not repeat the offense and shall be bound by the

abovementioned condition.

14. Given the background of allegations against the petitioner, it becomes paramount to protect the illicit liquors detection squad and their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

15. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

16. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any,

CRM-M-9804-2025

stand disposed of.

11.03.2025
Jyoti Sharma

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: No.