

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

**CRM-M-45174-2017
Decided on: 24.01.2018**

Rajinder Kumar @ Raju

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.S. Narula, Advocate for the petitioner.

Mr. B.S. Sewak, Addl. A.G., Punjab
for the respondent/State.

FATEH DEEP SINGH, J (ORAL)

Allegations against the petitioner Rajinder Kumar @ Raju in this second anticipatory bail application under Section 438 Cr.P.C. in case bearing FIR No.195 dated 08.11.2017 under section 61/1/14 of the Excise Act and Section 420 IPC pertaining to police station Basti Bawa Khel, Jalandhar, are that on basis of secret information received on 07.11.2017 (when date of occurrence as admitted by the State counsel and depicted in FIR-Annexure P-1 is 08.11.2017), that the petitioner along with his servants was habitually selling and supplying liquor and had stock of huge quantity of Indian made foreign liquor in his house situated in Basti Bawa Khel, Jalandhar, leading to the registration of the present case on 08.11.2017. As a consequence of which it is alleged that

the police obtained search warrant from the Magistrate and on raid by the police party headed by SI Resham Singh at the house of the petitioner, 19 boxes of English liquor brand (Cash), each box containing 12 bottles of 750 ml each, 9 boxes and 5 bottles of Imperial Blue, each bottle of 750 ml, 10 boxes of 1st Choice whisky with 24 half bottles measuring 375 ml each and 13 boxes of 1st Choice containing 50 bottles each of 180 ml, totalling to 600 were seized leading to the initiation of the present proceedings.

The contentions of the learned counsel for the petitioner are that on account of history of enmity of the petitioner with influential persons, he has been falsely implicated when earlier complaint (Annexure P-3) was made by business partner of the petitioner, namely Pooja Chauhan, addressed to the Deputy Police Commissioner, Jalandhar highlighting that in spite of Court case pending between the said complainant whom present petitioner was helping, it was on the complaint of the petitioner, when in the house of Pooja Chauhan some miscreants trespassed, police had initiated an action in retaliation. In the present case, recovery has already been effected and three different FIRs on the same set of allegations dated 16.05.2017, 04.09.2017 and the present one on 08.09.2017 have been registered and there is not an iota of evidence to connect the petitioner with the alleged recoveries.

Learned State counsel stoutly opposed the grant of bail on

the grounds of massive quantity of liquor having been recovered from the possession of the petitioner from his house and, therefore, his custodial interrogation was essential.

Appreciating the submissions, it is own stand of the State that admittedly three sets of FIRs (Annexures P-1, P-4 and P-8) have been registered which are ditto in their allegations. The own admission by the State that at the time of alleged recoveries, the petitioner was nowhere found in the house and after opening the locks, the recoveries have been effected and with all fairness, learned State counsel accepts that there is not even an iota of evidence to show that the petitioner happens to be in possession of the premises in question from where the recoveries are alleged to have been effected. It is a debatable issue as to whether the petitioner was in conscious possession of the contraband. In the light of what appears to be repeated registration of cases under the same very offence on similar set of allegations, is in itself suggestive of likelihood of false implication. Recovery admittedly has already been effected and thus custodial interrogation of the petitioner is no more required and his joining the investigations would suffice the purpose. In the light of the above observations, it would be a travesty of justice to send the petitioner behind the bars in the present case. Thus, in the event of arrest, petitioner is ordered to be released on bail to the satisfaction of the Arresting Officer till submission of report under Section 173 Cr.P.C.

(challan). He shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

24.01.2018
Dinesh/*rps*

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No