

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

CRM-M-48303-2018
Date of decision: 06.12.2018

Vipan Kataria

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Sukhpreet Kaur, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No. 337 dated 04.10.2018, under Sections 420, 472, 473 of the IPC and Section 61-1-14 of the Punjab Excise Act, registered at Police Station Ambala City, District Ambala.

The operative part of the order dated 31.10.2018, vide which, the petitioner was granted interim bail, reads as under:

“Learned counsel for the petitioner submits that the FIR was registered on a secret information and on the basis of the same, the recovery has been effected. Learned counsel further submits that the allegations against the petitioner are that the liquor was recovered from his premises without any licence or permit and therefore custodial interrogation of the petitioner is not required. Notice of motion for

06.12.2018.”

Learned counsel for the petitioner submits that the FIR was registered on a secret information and recovery of empty bottles of foreign made liquor was made. It is further submitted that in fact the petitioner has falsely been implicated in this case on account of a rivalry of the petitioner with a liquor vendor, whose shop is adjoining the juice shop of the petitioner, and due to visits of unsocial element, the petitioner has raised objection to the same as the business of the petitioner was affecting.

Learned counsel for the petitioner further submits that petitioner was initially booked under the provisions of the Punjab Excise Act and was released on bail, however, Sections 420, 472 and 473 of the IPC were added later on.

It is further submitted that as per the allegations in the FIR, recovery was allegedly made on 30.07.2018, whereas the FIR was registered on 04.10.2018 after a gap of more than two months.

Learned counsel for the petitioner further submits that in view of the provisions of Section 63-A of the Punjab Excise Act, it will be a debatable issue whether offence under Sections 420, 472 and 473 of the IPC is made out in the present case.

Learned State counsel, on instructions from from the Investigating Officer, submits that in pursuance to the order dated 31.10.2018, the petitioner has joined the investigation and he is no more required for further investigation. It is also submitted that delay in registration of the FIR has occurred on account of opinion taken by the department from the District Attorney.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 31.10.2018, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

December 06, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No