

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-7981-2019 (O&M)

Date of Decision:-28.5.2019

Shiv Raj

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rao Ajender Singh, Advocate for the petitioner.

Ms. Aditi Girdhar, Assistant Advocate General, Haryana.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.536 dated 11.10.2018 at Police Station City Narnaul, District Mahendergarh, Haryana under Sections 420, 467, 468, 471 and 120-B of Indian Penal Code, 1860 and Section 61 of Punjab Excise Act, 1914.

The FIR was lodged on the basis of secret information to the effect that one red coloured canter is lying parked near Nang Tihari Bye Pass, Narnaul on which different registration numbers have been written in the front number plate and in the rear number plate and that some smugglers on the basis of fake documents smuggled the liquor from the State of Haryana to Gujarat and Rajasthan. Upon receipt of the said information, the police went to the disclosed place and the truck in question was found parked, which was found to contain 394 boxes of county made liquor.

It is further the case of prosecution that on 8.12.2018, one Shri Bhagwan was arrested, who made disclosure statement to the effect that he had been enticed into the trade of smuggling of liquor by Raghunath and that he had arranged for the liquor and told him to take the same in the truck from Bhiwani to Narnaul. It is further the case of prosecution that subsequently aforesaid Raghunath, who was granted anticipatory bail by learned Additional Sessions Judge, Narnaul on 11.2.2019 suffered a disclosure statement to the effect that the liquor in question had been loaded from the liquor vend of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that, in any case, he is a duly licensed liquor vendor possessing a valid 'L-13' license for the year 2018-2019 under the name and style of M/s Dada Wines, Bhiwani of which he is the proprietor.

The aforesaid fact has not been disputed by the learned State counsel assisted by Sub Inspector Sukhbir Singh, who is present in Court.

Having regard to the facts and circumstances of the case and bearing in mind that the alleged recovery was not effected in the presence of the petitioner and, in any case, he is holding a valid licence, it will certainly be debatable as to whether the petitioner, who is sought to be nominated as an accused on the basis of statement of co-accused, the admissibility and veracity of which is yet to be tested, can indeed be held liable for the alleged recovery. The petitioner is stated to have joined investigation. As such, the petition merits acceptance and the interim directions issued by this Court vide order dated 22.2.2019 are hereby made absolute subject to the condition

that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

The present petition stands accepted accordingly.

28.5.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No