

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

**CRM-M No.64592-2018 (O&M)
Date of Decision : 02.05.2019**

Sanjeev Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Ms. Neelam, Advocate for
Mr. A.S.Barnala, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

AJAY TEWARI, J. (Oral)

This is a petition for grant of pre-arrest bail to the petitioner under Section 438 Cr.P.C. in case FIR No.1040 dated 19.10.2018 registered under Sections 63, 67, 61/1 of Excise Act, 1914 and Sections 420/467/468/471/120-B and 34 IPC at Police Station Model Town, Panipat, District Panipat.

On 07.01.2019 the following order was passed:-

“Prayer in this second petition under Section 438 Cr.P.C. has been made for grant of anticipatory bail to the petitioner, in case, FIR No.1040 dated 19.10.2018, registered under Sections 63, 67, 61/1 of Excise Act 1914 and Sections 420, 467, 468, 471, 120-B and 34 IPC at Police Station Model Town, Panipat, District Panipat.

According to the prosecution, on 19.10.2018 on receipt of secret information that petitioner and his accomplice Sahil and Yogesh along with 4/5 more persons were indulging in preparing spurious liquor in the poultry farm, situated in the field of Randhir son of Vakil, ASI Subhash Chander along with Excise Inspector Pawan Kumar raided the disclosed place and found a Canter bearing No.HR-55L-0511 parked there. Upon checking of the same, 2750 half bottles make 'Royal Stag' were found therein. Thereafter, poultry farm was checked and 5 plastic drums of 200 litres each containing chemical and 23 plastic can of 40 litres each, for being used in making spurious liquor were also taken into possession. That apart, 1920 litres chemical, 15 plastic drums of 200 litres each of DM water, 2 litres scent and 32 litres chemical (colour), 15 empty plastic drums of the capacity of 200 litres each were recovered. Besides that, four machines putting seals on liquor bottles; 1300 pieces of cardboard boxes make 'Royal Stag'; 950 pieces cardboard bottle cover, 600 pieces of cardboard cover make 'Imperial Blue'; 2100 pieces cardboard bottle cover of Imperial Blue; 35100 cap seals mark 'Royal Stag'; 2 packets of stamping ink and one box of half prepared spurious liquor were recovered from the spot.

Learned counsel contends that at the time of arguments on the first petition of the petitioner, complete record of the petitioner was not available with him and for that reason, he could not assist the Court in an effective manner. According to the record obtained from the Toll Plaza Garunda, the petitioner was not present on the disclosed place. He has falsely been implicated in the instant case only on the basis of disclosure statements of co-accused Anil, Sandeep and Vakil, which are very weak type of evidence. Co-accused Sumit has been granted anticipatory bail by this Court in CRM-M-52854-

2018. Considering the case of the petitioner on the same parity, he may be granted anticipatory bail. No custodial interrogation is required.

On the other hand, learned State counsel vehemently opposing the anticipatory bail contends that the distance between the alleged Toll Plaza from the disclosed place is negligible. A person can reach from the Toll Plaza to alleged disclosed place within 5/10 minutes. Therefore, the plea of alibi taken by the petitioner has no where to stand. The alleged raid was conducted at 9:30 a.m. and the petitioner had already crossed the Toll Plaza, Garunda from Patiala at around 9:02 a.m. Therefore, the petitioner does not deserve the concession of anticipatory bail.

Notice of motion for 02.05.2019.

In the meantime, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, he shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned State counsel on instructions from ASI Subhash Chander accepts the fact that the petitioner has joined the investigation and is no more required for custodial interrogation.

In these circumstances, I do not deem it appropriate to deny anticipatory bail to the petitioner.

Resultantly, the petition is allowed. The interim order dated 07.01.2019 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

02.05.2019
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No