

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

CRM-M-17430-2020

Date of decision:-16.9.2020

Iqbal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.J.S. Sandhu, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

Reply filed by the State, be taken on record.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Iqbal Singh aged about 40 years, an accused in FIR No.94 dated 29.5.2020 for the offence under Section 61 of the Punjab Excise Act, 1914, registered with Police Station Nathana, District Bathinda, Punjab.

In nutshell, the prosecution story is that on 29.5.2020 on getting a secret information, Sh.Gurtej Singh, Excise and Taxation Officer, Circle Bhucho, Police Station Nathana along with a police party conducted a raid at the residential house of the petitioner – accused Iqbal Singh situated at village Jagtapatti Nathana and observed petitioner moving his hand in the plastic container lying in the bathroom. However,

on observing the police party, he ran away from the spot after scaling the wall. He was duly identified by the police Inspector heading the police party. On being checked, the plastic container in the bathroom was found to have 15 litre of lahan. Another plastic container lying thereby was also found to contain lahan to the similar extent, total recovered lahan being 30 litre. The lahan was mixture of jeggry water and KIKAR bark fit for illicit distillation. The said lahan was taken into possession. Formal FIR was registered. The investigation in this case got started.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Bathinda vide order dated 15.6.2020. As such, the petitioner has approached this Court by way of filing the present petition asking for similar relief, which is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the records.

Learned counsel for the petitioner has contended that the petitioner is innocent and a false case has been planted upon him. It is not believable that with so many police officials around, he would have managed to run away from the spot. Furthermore, even as per the prosecution story only lahan was recovered and no working still was found to be there. The petitioner has joined the investigation, as such his custodial interrogation is not required. Therefore, he be granted pre-arrest bail.

Whereas, the request is being opposed by the State counsel vehemently.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

The conduct of the accused in running away after seeing the police party is something, which disentitles him to discretionary equitable relief of anticipatory bail. It would be travesty of justice if protection in the form of pre-arrest bail is granted to the criminals, who on seeing the police party manage to flee and thus are able to avoid arrest and custodial interrogation in a case of non-bailable offence. If the petitioner had not done anything wrong, then he should have stayed at the spot and explained everything to the raiding party instead of running away, which rather goes to show his guilty intention. Though no working still was found to be there in the house of the petitioner by the raiding party but the very fact that 30 litre lahan, which was fit for distillation was recovered, goes to show that the petitioner intended to indulge in illicit distillation.

Consumption of illicit liquor has resulted in many tragedies throughout the country. Recently in the State of Punjab more than 100 persons have lost their lives in a hooch tragedy. Such type of persons indulging in illicit distillation need to be dealt with firmly and sternly, so that illicit distillation can be checked and precious lives of persons, especially belonging to poor strata of society, who tend to consume such liquor, being comparatively cheap, can be saved.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

16.9.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No