

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.17953 of 2020

Date of Decision: December 07, 2020

Gurdev Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ramanpreet Raju, Advocate,
for the petitioner.

Mr. Harmandeep Singh Sullar, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.38 dated 11.04.2020, under Section 61(1) Punjab Excise Act, 1914, registered at Police Station, Bhaini Mian Khan, District Gurdaspur. The petitioner apprehended his arrest at the hands of police.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 09.07.2020, whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“The cases have been taken up for hearing through video-conferencing.

Learned counsel for the petitioner(s) contends that the story projected by the prosecution in both the cases is verbatim same where a person was shown standing in the bushes on his knee and was shaking his hand in the lahan. On seeing the police party he started running towards eastern side of bushes. He was allegedly identified by the police personal. The FIR

was registered on the basis of secret information, still no independent witness was joined. 100 kgs of alleged lahan was found at the spot, but the police separated only 5 kgs of lahan on the plea that the remaining lahan was not to be lifted and was destroyed at the spot.

Learned counsel for the petitioner further submits that in both the FIRs, story is verbatim same with reference to peculiar conduct of the accused person. Though the FIRs were registered on different dates and the composition of police patrolling was slightly changed.

Notice of motion.

On the asking of Court, Mr.J.P.Ratra, DAG, Punjab accepts notice.

In the meanwhile, petitioners (in both the cases) are directed to appear before the SHO/Investigating Officer to join investigation on 14.7.2020 at 11.00 a.m. and in the event of their arrest, they shall be enlarged on ad interim bail, on their furnishing requisite bail bonds/surety bonds subject to the satisfaction of Arresting Officer. However, petitioners shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. On the next date of hearing, learned State counsel shall apprise this Court as to under whose orders the lahan beyond 5 kgs was destroyed by the police. A specific affidavit of the Investigating Officer be filed in the said context.

List again on 27.8.2020.

A photocopy of this order be placed on the file of connected case.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the police and joined the investigation. According to him, the petitioner cooperated with the police authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel has invited the attention of the Court to the affidavit dated 08.09.2020 filed by ASI Jagdish Singh to contend that the necessary explanation regarding destruction of lahan has been furnished.

After examining the contents of the affidavit, this Court finds the explanation justified.

Learned State counsel further, on instructions from ASI Jagdish Singh, does not dispute this fact that the petitioner has joined the investigation. He, on instructions, states that the petitioner is not required for custodial interrogation for the time being.

Considering the above, the petition is allowed and the interim bail granted by this Court vide order dated 09.07.2020 is made absolute.

December 07, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No