

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**CRM-M- No. 22171 of 2020 (O&M)
Date of decision : August 14, 2020**

Bhupinder Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Nirmaljeet Singh Sidhu, Advocate, for the petitioner

Mr. Jagmohan Ghuman, DAG Punjab for the State

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

Petitioner Bhupinder Singh who is accused in case FIR No. 72 dated 19.7.2020, under Section 61 of Excise Act, 1914, Police Station Ballianwali, District Bathinda, has come up in this first anticipatory bail application under section 438 Cr.P.C.

The present case was got registered on the basis of secret information whereby the informer informed the police officials that the petitioner was distilling illicit liquor at his home and if raid is

conducted he can be apprehended. Upon raid, the police recovered 46 litres of Lahan.

Learned counsel for the petitioner inter-alia contends that it was simplicitor allegations which are not substantiated as neither the petitioner was apprehended at the spot and being common joint family residential house in the absence of any due compliance of Section 100 Cr.P.C., the prosecution case is on a weak wicket. The counsel has asserted that how the petitioner is being connected with the commission of the offence is anybody's guess as neither he was present nor was identified by any of the police official.

Learned State counsel with all fairness though concedes the facts and on the instructions from SI Gurpreet Singh has accepted that the recovered article was a mixture of water, jaggery and kikkar shrimps and there was no chemical but has opposed the bail on the grounds that such like practices of illicit distilling needs to be curbed.

Going through the submissions, admittedly the petitioner is neither identified nor apprehended at the spot. Recovery has already been effected which is purely non-chemical matter and analysis report is yet to be received. Sending the petitioner behind the bars would be traversy of justice.

In view of the aforesaid, the present petition is allowed.

In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court. Presently, the petitioner is directed to join investigation within 15 days of the receipt of the copy of order.

The present petition stands disposed of.

August 14, 2020
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No