

**CRM-M-22385-2020 (O&M)**

**Through Video Conference**

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

**CRM-M-22385-2020 (O&M).  
Decided on: September 24, 2020.**

**Sardool Singh**

**.. Petitioner**

**VERSUS**

**State of Punjab**

**.. Respondent**

**\* \* \***

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

**\* \* \***

**PRESENT      Mr.G.S.Bhatia, Advocate,  
for the petitioner.**

**Mr.H.S. Sitta, Asstt. A.G, Punjab.**

**JASGURPREET SINGH PURI, J. (ORAL)**

The present petition has been filed under Section 438 of  
the Code of Criminal Procedure, seeking pre-arrest bail in FIR No.214 dated

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12.7.2020, under Section 61 of the Excise Act, 1914, registered at Police Station, Jandiala, Amritsar.

The allegations which have been contained in the FIR are that one informer had informed that the petitioner used to sell illegal liquor outside his residential house and that he is selling liquor today also and if a raid is conducted at his residential address then illegal liquor can be recovered.

Learned counsel for the petitioner has submitted that the petitioner has been wrongly involved in the present case and is not involved in the present case at all.

Notice of motion was issued on 11.8.2020 on the basis of submissions made by the learned counsel for the petitioner that the petitioner was not arrested from the spot and that the petitioner has been falsely implicated because it is near impossible for an accused to escape when the raid is conducted.

Reply has been filed on behalf of the State of Punjab by way of affidavit of Mr.Sukhwinder Pal Singh, DSP, Sub Division, Jalandhar. It has been stated in the said reply that the petitioner has not come to this Court with clean hands and has concealed the material facts and has mislead the Court. In para 9 of the petition, the petitioner has stated that the petitioner is not involved in any other case excepting the five FIRs which have been mentioned beside the present FIR whereas actually the petitioner is involved in other 8 FIRs and therefore, total 14 FIRs are there against the petitioner besides present FIR. Details of these FIRs have been

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mentioned in the affidavit. The table is reproduced as below:-

The details of FIRs mentioned in the petition himself by the petitioner.

| Sr. No. | FIR No. Date, under Section                                                                                    | Police Station              | Present status |
|---------|----------------------------------------------------------------------------------------------------------------|-----------------------------|----------------|
| 1       | FIR No.38/2015 u/S 61.1.14 Excise Act                                                                          | PS Jandiala, Amritsar Rural | Discharged     |
| 2       | FIR No.80/2019 (in actual 12.4.2016) u/S 61.1.14 Excise Act                                                    | PS Jandiala, Amritsar Rural | Acquitted      |
| 3       | FIR No.109 dated 30.5.2017 u/S 61.1.14 Excise Act                                                              | PS Jandiala, Amritsar Rural | Convicted      |
| 4       | FIR No.24 dated 7.2.2017 u/S 61.1.14 Excise Act                                                                | PS Jandiala, Amritsar Rural | Pending Trial  |
| 5       | FIR No.213 dated 19.11.2017 u/S 308, 427, 323, 148, 149 IPC                                                    | PS Jandiala, Amritsar Rural | Pending Trial  |
| 6       | FIR No.110/2017 u/S 379 IPC. The petitioner is not involved in this FIR. Harbhej Singh is accused in this FIR. | PS Jandiala, Amritsar Rural | Pending Trial  |

The details of FIRs registered against the petitioner other than those mentioned in the petition himself by the petitioner.

| Sr. No. | FIR No. Date, under Section                        | Police Station              | Present status      |
|---------|----------------------------------------------------|-----------------------------|---------------------|
| 1       | FIR No.211 dated 19.11.2011 u/S 61.1.14 Excise Act | PS Jandiala, Amritsar Rural | Convicted           |
| 2       | FIR No.20 dated 17.02.2011 u/S 61.1.14 Excise Act  | PS Tarsikka, Amritsar Rural | Convicted           |
| 3       | FIR No.182 dated 19.8.2012 u/S 61.1.14 Excise Act  | PS Jandiala, Amritsar Rural | Acquitted           |
| 4       | FIR No.225 dated 22.10.2017 u/S 61.1.14 Excise Act | PS Jandiala, Amritsar Rural | Pending Trial       |
| 5       | FIR No.178 dated 19.8.2018 u/S 61.1.14 Excise Act  | PS Jandiala, Amritsar Rural | Pending Trial       |
| 6       | FIR No.131 dated 8.8.2019 u/S 61.1.14 Excise Act   | PS Jandiala, Amritsar Rural | Under investigation |
| 7       | FIR No.263 dated 29.10.2019 u/S 61.1.14 Excise Act | PS Jandiala, Amritsar Rural | Under Investigation |

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| Sr. No. | FIR No. Date, under Section                                           | Police Station              | Present status                             |
|---------|-----------------------------------------------------------------------|-----------------------------|--------------------------------------------|
| 8       | FIR No.238 dated 2.8.2020 u/S 61.1.14 Excise Act and 420 and 328 IPC. | PS Jandiala, Amritsar Rural | Under investigation and yet to be arrested |

A perusal of the same would show that the petitioner was convicted in three of these FIRs which are under the Excise Act and in five FIRs, the trial is pending. However, in one case, the petitioner has been discharged and in two cases, he has been acquitted. The remaining 3 FIRs are still under investigation. The chart would show that in most of the FIRs, the petitioner was involved in the Excise Act. Further as per submissions of learned State counsel, this case was registered on the basis of secret information that the petitioner was involved in selling illicit liquor outside his house. Pursuant to the tip of, the Investigation Officer along with other police officials conducted raid at the address of the petitioner. On seeing the police party, the petitioner managed to escape from the spot after throwing plastic can on the spot which was found to contain 35 bottles of illicit liquor which was taken into police possession and accordingly the above said FIR was registered against the petitioner who has been absconding since the registration of the above case and his whereabouts are not traceable. Further, it has been stated in the affidavit that it transpires that the present petitioner is a habitual offender and is in illegal trade of selling illicit liquor and whisky for a long period of time. It is also stated in the affidavit that the petitioner is also involved in selling spurious liquor to the general public and that in the recent past, the spurious liquor has claimed large number of

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human lives in some Districts of Punjab. The petitioner has been absconding since the registration of the FIR and even thereafter, he was involved in selling spurious liquor and therefore, FIR No.238 dated 2.8.2020 under Section 61/1/14 of the Excise Act and under Section 420 and 328 IPC, has been registered at Police Station Jandiala, Amritsar (Rural) in this regard against the petitioner and the petitioner is yet to be arrested in that FIR.

It is prayed in the affidavit that the custodial interrogation of the petitioner is required.

I have heard the learned counsel for the parties.

Notice of motion was issued in the present case on the basis of statement made by the petitioner that he has been falsely implicated in the present case. Thereafter, reply by way of affidavit was filed by the State and taken on record on 31.8.2020 and it was directed that a copy be supplied to the learned counsel for petitioner. The petitioner has not filed any counter affidavit.

The prayer of the petitioner is for grant of anticipatory bail. However, the State has brought to the notice of this Court that the petitioner has not only concealed the FIRs and cases qua him but also he is a habitual offender. The State of Punjab has suffered a lot by loss of many lives during recent past due to spurious illicit liquor. Furthermore, even another FIR was registered against the petitioner after the present FIR and the petitioner is absconding. Therefore, considering the totality of facts and circumstances, this Court does not deem it appropriate to grant the

concession of anticipatory bail to the petitioner. Since the petitioner has actively concealed and suppressed material facts from this Court, it will be necessary to consider imposition of punitive costs on the petitioner.

A perusal of para 9 of the petition would show that the petitioner has disclosed only 6 FIRs registered against him and he has concealed the factum regarding the remaining FIRs which now the State has brought to the notice of this Court by way of affidavit. It is also important to mention here that the present petition is supported by an affidavit of the petitioner and therefore, it is clear that the petitioner has misled this Court and has concealed the material facts from this Court. One has to approach the Court with clean hands and especially when the petition for anticipatory bail is filed then such kind of action of misleading the Court attains seriousness. It is correct that liberty of an individual is of utmost importance but such liberty cannot be misutilised by anybody by concealing the material facts from the Court especially in the facts and circumstances of the present case where the petitioner is absconding as per the affidavit filed by the police and even thereafter, he was involved in another FIR regarding selling of spurious liquor as it has been stated in para 4 of the affidavit filed by the State and therefore, such kind of attitude of the petitioner cannot be tolerated under any circumstances.

The Hon'ble Supreme Court in *Vijay Syal and another Vs. State of Punjab and others, 2003 (9) SCC 401*, observed that in order to maintain the sanctity and solemnity of the proceedings in law Courts, the parties should not make inaccurate statements/misrepresent the

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Court/conceal material facts from Court with a desire to gain some advantage and if he does so, then it is at his own risk and cost and such party must be ready to take the consequences. Para 24 of the aforesaid judgment is reproduced as under:-

*“24. In order to sustain and maintain sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters are either mistaken or lightly taken instead of learning proper lesson. Hence there is a compelling need to take serious view in such matters to ensure expected purity and grace in the administration of justice.”*

Consequently, the present petition is dismissed. In view of the facts and circumstances of the present case and in view of abuse of process of law by the petitioner, the petitioner is burdened with costs of Rs.25,000/- (Rupees Twenty Five Thousand Only). The petitioner shall deposit the cost in “BCPH Covid – 19 Relief Fund” of the Bar Council of

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Punjab and Haryana, Chandigarh, within three months from today and in case it is not deposited within the aforesaid time, the Bar Council shall be at liberty to recover the same in accordance with law.

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|-----------------------------|--------------------------------|
| <b>September 24, 2020.</b>  | <b>JASGURPREET SINGH PURI)</b> |
| <b>raj arora</b>            | <b>JUDGE</b>                   |
| Whether speaking / reasoned | Yes / No                       |
| Whether reportable          | Yes / No                       |