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

CRM-M No.25158 of 2020

Date of Decision: 27.10.2020

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.....Petitioners

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Sukhveer Kaur, Advocate
for the petitioners.

Mr. Ramdeep Pratap Singh, D.A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video conferencing.

Petitioners seek grant of anticipatory bail in case bearing FIR No.55 dated 24.05.2020 registered under Sections 61-1-14 of Punjab Excise Act, 1914 at Police Station Qila Lal Singh, Tehsil Batala District Gurdaspur.

On 31.08.2020, following order was passed by the Co-ordinate Bench of this Court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the

situation existing due to the COVID-19 pandemic.

Learned counsel for the petitioners submits that though the recovery of 100 bottles of illicit liquor is alleged to have been made from a can in the petitioners' house, however no independent witness has even been attempted to be joined.

Notice of motion.

Mr. Harbir Sandhu, learned AAG, Punjab, accepts notice at the asking of the court and upon query to him, he submits that 7 other criminal cases stand registered against petitioner no.1 and one other criminal case stands registered against petitioner no.2, the details of which would be given in the reply to be filed.

Upon query as regards any independent witnesses having been joined at the time when the alleged raid was conducted on the basis of secret information allegedly received, he submits that as per his instructions so far at least, no independent witness was joined.

That being so, it is necessary to refer to to sub-section (8) of Section 100 of the Code of Criminal Procedure, 1973, wherein it has been provided that if upon attempting to join any independent witness, such witness refuses to join in police investigation, he can be proceeded against for refusing to so join.

Consequently, in the aforesaid circumstances, even though there are stated to be other criminal cases registered against the petitioners however, as to whether this particular case has been correctly recorded, or otherwise, on the basis of any secret information received, with there being also (not so far at least) instructions of any videography or photographs of the recovery made, the

petitioners are directed to join investigation and upon them so joining if they are sought to be arrested, they would be released on bail, on their furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

They shall, further, abide by all the conditions stipulated in Section 438 (2) of the Cr.P.C.

If the arresting officer does not join the petitioners in investigation, they would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join them in investigation.

Adjourned to 01.10.2020.

A gazetted officer directed to file a reply to the petition, giving therein the reasons as to why no independent witness was joined in the investigation and why, if any independent witness refused to join, no proceedings under the aforesaid provision were taken against her/him.”

Thereafter, vide order dated 14.10.2020, last opportunity was granted to the petitioners to join the investigation.

Learned counsel for the petitioners submitted that in compliance of the aforesaid orders, the petitioners have joined the investigation to the satisfaction of the Investigating Officer.

Learned State counsel on instructions from ASI Malkit Singh admitted the aforesaid fact and submitted that the petitioners are no more required for further investigation of the case.

In view of aforesaid factual position, the interim order dated 31.08.2020 is made absolute. Petitioners shall keep on

joining the investigation as and when required to do so and they shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands disposed of.

October 27, 2020	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No