

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

205

**CRM-M-24964-2020
Date of decision: 06.10.2020**

SHINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

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

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C') for grant of anticipatory bail in case FIR No. 169 dated 02.08.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Kotwali Kapurthala, District Kapurthala.

As per the prosecution version, on 02.08.2020 police party headed by HC Santokh Singh conducted nakabandi on the basis of secret information that Shinder Singh (the petitioner), who is habitual of selling illicit liquor, is bringing liquor from village Rupanpur side. After some time the petitioner was seen coming while carrying a plastic cane on his shoulder. On seeing the police party, he fled from the spot after throwing the plastic can in the rice field on his left side. HC Jarnail Singh knew the petitioner and also called him by his name

Shinder Singh but the petitioner did not stop. On checking the plastic can was found to be containing 11 bottles of illicit liquor measuring 8250 mls.

Vide order dated 28.08.2020 this Court granted interim anticipatory bail to the petitioner with direction to join the investigation. Relevant part of order dated 28.08.2020 reads as under :-

“.....The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.169 dated 02.08.2020 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Kotwali, District Kapurthala.

Learned Counsel for the petitioner has submitted that the petitioner was falsely implicated in the case. The petitioner has been named in the FIR on the basis of secret information received. The petitioner is alleged to have thrown plastic can in the rice field and to have fled from the spot. The petitioner was not arrested on the spot and no recovery was made from him. The petitioner is ready to join the investigation and his custodial interrogation is not required as the recovery has already been made.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Amit Mehta, Sr. DAG, Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to complete his instructions.

Adjourned to 06.10.2020.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which he shall not be entitled to the protection of interim bail allowed to him.”

The petition has been opposed by learned State Counsel.

However, no written reply has been filed on behalf of the State.

I have heard learned Counsel for the petitioner and learned

State Counsel and have gone through the relevant record.

Learned counsel for the petitioner has reiterated factual submissions made earlier and submitted that the petitioner has joined the investigation.

Learned State counsel has vehemently opposed the petition and submitted that in view of the gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel on instructions from ASI Avtar Singh has acknowledged that in compliance with order dated 28.08.2020 passed by this Court, the petitioner has joined the investigation and also submitted that his custodial interrogation is not required for any purpose.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner and also the fact that custodial interrogation of the petitioner is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves grant of anticipatory bail.

Therefore, the petition is allowed and order dated 28.08.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall comply with the conditions enumerated in Section 438 (2) (i) to (iii) of the Cr.P.C. In view of Section 438(2)(iv) read with Section 437(3)(b) of the Cr.P.C. interim anticipatory bail granted to the petitioner shall also be subject to the condition that he shall not commit any similar offence under the Punjab

Excise Act, 1914 after his release on anticipatory bail. In case of non-compliance of the above-said conditions, the petitioner shall not be entitled to the protection of anticipatory bail allowed to him.

06.10.2020

kavneet singh

(ARUN KUMAR TYAGI)

JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No