

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

215)

CRM-M-27770 of 2020

Date of Decision: 16.12.2020

Jaspinder Singh @ Jassa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Ritesh Pandey, Advocate, for the petitioner.
Mr. Amit Mehra, Sr. DAG, Punjab.

Amol Rattan Singh, J. (Oral)

All the 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.

By this petition, filed under the provisions of Section 439 of the Cr.P.C., the petitioner seeks the concession of regular bail, upon FIR no.56, dated 16.06.2020, having been registered at Police Station Ghuman Kalan, District Gurdaspur, alleging therein the commission of an offence punishable under Section 61 of the Punjab Excise Act, 1914.

After the reply dated 26.10.2020 filed by the DSP, Kalanaur, District Gurdaspur, the following order had been passed on 24.11.2020:-

“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.

Adjourned to 16.12.2020.

The Senior Superintendent of Police, Gurdaspur, is directed to file a detailed reply to the petition as to why no witnesses were joined at the time that the petitioners' premises is alleged to have been raided, and if any witnesses refused to join, why no action has been initiated against them in

terms of Section 100(8) of the Code of Criminal Procedure.

It will also be stated as to why, despite the recovery made, no photographs etc. of the working still or the *lahan* recovered from the house of the petitioner were taken at all.

However, naturally, if such photographs etc. were taken, they would be annexed with the reply of the SSP.

If the affidavit of the SSP in reply to the petition is not filed answering also the aforesaid queries of this court, he shall remain personally present in court on the next date of hearing itself, by way of video conference.”

Pursuant to that order, the SSP, Gurdaspur, has filed an affidavit dated 12.12.2020, stating therein that as per the report obtained from the DSP, the petitioner had run away from the spot and as regards non-joining of witnesses, nobody had agreed to join in view of some “party faction” in the village and as regards no proceedings having been taken under the provision of sub-section (8) of Section 100 of the Cr.P.C., an explanation has been called for from the investigating officer.

It has also been stated that no photographs were taken of the *lahan* being (allegedly) recovered from the house of the petitioner.

It has next been stated in the affidavit that there are four other criminal cases registered against the petitioner, all under the same provisions, i.e. Section 61 of the Punjab Excise Act, 1914.

That being so, whether or not the contention of counsel for the petitioner can be accepted that the entire case has been planted upon the petitioner only because of the other cases registered against him, would need to be seen by the trial court, but keeping the circumstances of the present

case in view, the present petition is allowed, with the petitioner ordered to be enlarged on bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate concerned.

16.12.2020
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No