

CRM-M-32870-2020

Date of decision: 15.10.2020

Krishan Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Liaqat Ali, Advocate
for the petitioner.**FATEH DEEP SINGH, J. (ORAL)**

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Notice of motion to the respondent-State.

Mr. Jagmohan Ghuman, DAG, Punjab puts in appearance and accepts notice on behalf of the respondent-State. Copy supplied.

The petitioner-Krishan Singh has sought this first anticipatory bail application under Section 438 Cr.P.C. in a case bearing FIR No.219 dated 13.09.2020 under Sections 61, 1, 14 of the Punjab Excise Act registered at Police Station Mehatpur, District Jalandhar.

The admitted facts, as per the State, are that it was on

the basis of secret information that the accused is in the habit of distilling illicit liquor at his residence and to facilitate the same, was preparing lahan and if raid is conducted, could be apprehended. On the basis of this information on 13.09.2020, the police raided the dwelling unit of the accused and got recovered 200 litres of illicit lahan.

Learned counsel for the petitioner *inter alia* contends that it is merely on the basis of secret information, the FIR has been registered and neither the accused was apprehended at the spot nor seen at the time of the raid. It is argued that since the alleged recovery is effected from the dwelling unit, it cannot be said at this stage that the accused was in conscious possession of the same.

The learned State counsel does not displace the facts but has strongly opposed the grant of bail on the grounds that the accused is a habitual offender and his custodial interrogation is essential.

Be so as it may, the recovery already stands effected. The FIR is based on secret information, since the recovery is from the common dwelling unit and the State counsel to the specific query of this Court, is unable to highlight if there was any evidence to illustrate if the accused was the sole occupant of the house. In view of this circumstance and there being violation of Section 100 (4) Cr.P.C., it is a fit case to allow the present petition.

Accordingly, the present petition is allowed. The petitioner is directed to appear before the investigating officer/Magistrate within a period of 15 days from the date of

receipt of certified copy of this order and on his doing so, he shall be released on bail to the satisfaction of the arresting/investigating officer till submission of report under Section 173 Cr.P.C. (challan). The petitioner shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, he will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The present petition stands disposed off accordingly.

15.10.2020

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No