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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 83/2020**

AKSHAY GUPTA

..... Petitioner

Through: **Mr. Jatan Singh, Mr. Manoj Kumar
and Mr. Shailesh Anand, Advs.**

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through: **Mr. Panna Lal Sharma, APP for State
with SI Amit Kumar, PS – Subhash
Place, HC Surender Singh/ IO, PS
Subhash Place**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

15.01.2020

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CRL. M.A. 708/2020

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

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3. The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail in case of FIR No. 228/2019 for the offences punishable under Section 33, Delhi Excise Act and registered with Police Station – Subhash Place, Delhi.
4. The present petition is filed on the ground that the petitioner was not the owner of the restaurant in question on the day of incident i.e. on

21.07.2019 as he has already transferred the rights in favour of some other person, namely, Aakash prior to the date of the raid by the police. Since Aakash could not run the said restaurant properly, therefore , the petitioner was compelled to find another person namely Ravi to run the same and that the said person Ravi is now running the said Restaurant under the name of "TIMELESS" and as such, presently, the petitioner has no concern whatsoever with the lounge TIMELESS.

5. It is further submitted that even otherwise also the custodial interrogation of the petitioner is not required in the present case by the investigating agency, as the recovery of the alleged liquor without license has already been effected from the persons who were found selling /offering the liquor to the customers without a valid license.

6. It is not in dispute that the recovered bottles of liquor from the raid effected upon by the police is 11 pints of Beer and one bottle of Vodka (Revolution Original).

7. Learned APP for State has opposed the present petition by stating that there are four cases registered against the petitioner and out of four, two were registered earlier under Section 33 of Excise Act. Thus, he is a habitual offender and by not taking the appropriate licences, he is causing loss to the public exchequer.

8. Mr. Jatan Singh, learned counsel appearing on behalf of the petitioner submits that as alleged, loss is caused to the public exchequer by not paying the licence fee, therefore, without prejudice to his rights and contentions, he is ready to pay Rs.50,000/- as compensation.

9. Keeping in view the facts and circumstances of the case, this Court is of the considered view that the present case is fit for anticipatory bail. The SHO/ Arresting Officer/IO concerned, is hereby directed that in the event of arrest, the petitioner be released on bail on the following terms and conditions:-

(i) That the petitioner shall furnish a personal bond in the sum of ₹20,000/- with one surety in the like amount subject to the satisfaction of Arresting Officer/SHO/IO concerned;

(ii) That the petitioner shall cooperate with the investigation and make himself available for interrogation by police officer, as and when required;

(iii) That the petitioner is directed to pay an amount of Rs.25,000/- in favour of Nirmal Chhaya Jail Road, Hari Nagar, New Delhi for the welfare of destitute women and children.

(iv) That the petitioner is further directed to pay an amount of Rs.25,000/- in favour of the Blind School at Amar Colony, Delhi.

The aforementioned amount shall be paid within a period of two weeks from today and the receipt of the same shall be furnished to the IO.

10. Petition stands disposed of.

Order *dasti* under signatures of the Court Master.

SURESH KUMAR KAIT, J

JANUARY 15, 2020/PB