

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

(203)

CRM-M-2601-2021.
Date of Decision:-08.11.2021.

Bagicha Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Karanjeet Singh Brar, Advocate for the petitioners.

Mr. N.K. Banka, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.391 dated 09.11.2020 under Section 61 of the Excise Act, 1914, registered at Police Station Sadar Fazilka, District Fazilka.

Learned counsel for the petitioners has submitted that as far as petitioner No.1 is concerned, he has been arrested in another case and, thus, seeks to withdraw the present petition qua petitioner No.1.

In view of the statement made by learned counsel for the petitioners, the present petition is dismissed as withdrawn qua petitioner No.1.

With respect to petitioner No.2, it has been submitted that petitioner No.2 was neither apprehended on the spot and even the alleged

CRM-M-2601-2021

recovery was from the fields, which had been leased out to one Resham Singh. It is further submitted that the petitioner, in compliance to the order dated 08.02.2021 of the Co-ordinate Bench of this Court, has joined the investigation and nothing has to be recovered from the petitioner. Order dated 08.02.2021 is reproduced hereinbelow:-

“Prayer in this petition filed under Section 438 Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.391, dated 09.11.2020, under Section 61 of the Excise Act, 1914 registered at Police Station Sadar Fazilka, District Fazilka, Punjab.

Adjourned to 21.05.2021.

Meanwhile, petitioners are directed to join the investigation as and when required by the investigating officer. In the event of their arrest, they shall be admitted to interim bail on their furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioners shall abide by the terms and conditions as envisaged under Section 438(2) Code of Criminal Procedure, 1973.”

Learned State counsel has opposed the present petition by stating that the recovery in the present case is of 40 bottles of illicit liquor and 300 lts. of lahan.

Keeping in view the above facts and circumstances, moreso, the fact that petitioner No.2 was not arrested on the spot and the place from where the recovery was made was the field, which had been leased out to one Resham Singh, as has even been observed in the FIR (Annexure P-1) itself and also the fact that no further recovery is to be effected from the

CRM-M-2601-2021

petitioner No.2 and thus, the present petition for anticipatory bail qua petitioner No.2 is allowed and the interim order dated 08.02.2021 qua petitioner No.2 is made absolute.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

November 08, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No