

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 6130 of 2021 (O&M)

Date of decision : 10.2.2021

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Sukhwinder Singh

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

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H. S. Madaan, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioner Sukhwinder Singh, aged about 40 years son of Balwinder Singh, resident of Village Bhagatpura, Jitta Kalan, Tehsil and District Patiala, an accused in FIR No. 146 dated 22.12.2019, for offences under Sections 61/78(2) of Excise Act, 1914, registered at Police Station Sadar, Rajpura, Patiala.

Briefly stated, the prosecution story is that, on 22.12.2019,

at about 4.00 a.m., during the course of checking in the area of village Pehar Kalan, a Police Party from Police Station Sadar, Rajpura, intercepted a Canter bearing registration No. PB-46M-5966. The driver of said vehicle managed to run away. On checking of the vehicle, 60 cans of spirit alcohol were recovered from there, which were taken into police possession. Formal FIR in the matter was recorded. Investigation in the case started, during the course of which it transpired that Canter had already been sold by its registered owner Lakhwinder Singh to petitioner – Sukhwinder Singh on 23.3.2018 and Sukhwinder Singh had kept Lal Jeet Singh as driver on the said vehicle. The driver was arrested on 22.12.2019.

Apprehending his arrest in this case, petitioner -accused Sukhwinder Singh had approached the Court of Sessions at Patiala, by moving an application for pre-arrest bail. His such application, which was assigned to Additional Sessions Judge, Patiala, was dismissed vide detailed order dated 22.12.2020, as such, feeling dissatisfied, he has knocked at the door of this Court, craving for grant of similar relief.

Notice of motion.

At this stage, Mr. J.S. Ghuman, DAG, Punjab, has accepted notice on behalf of the State, opposing the prayer made by the petitioner.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

It is well settled law that pre-arrest bail is a discretionary

equitable relief and which is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to act as a shield for the culprits, saving them from interrogation by the police.

Admittedly the petitioner is involved in 9 criminal cases, the details of which have been given in the order passed by learned Additional Sessions Judge, Patiala and are reproduced below:

<i>Sr.No.</i>	<i>Offence u/s</i>
1	FIR No. 65/2011, under Section 61 Excise Act, PS Narcotics Cell, Amritsar.
2	FIR No. 277/2014, under Section 21,22 NDPS Act, PS Sultanwind, Amritsar.
3	FIR No. 32/2013, under Section 61 Excise Act, , PS Makboolpura, District Amritsar.
4	FIR No. 154/2014, under Section 61 Excise Act, , PS City Tarn Taran
5	FIR No. 66/2015, under Section 61 Excise Act, 420 IPC , PS Kanthu Nangal, Amritsar
6	FIR No. 81 dt. 11.7.2019, under Section 61, Excise Act, PS Rao, District Nawa Shehar
7	FIR No. 146 dt. 22.12.2019, under Section 61, 1, 14 added offence 78 (2) Excise Act, , PS Sadar, Rajpura
8	FIR No. 22 dt. 20.1.2020, under Section 61, 78(2) Excise Act, , PS Makboolpura, District Amritsar.
9	FIR No. 193 dt. 12.9.2020 under Section 18 NDPS Act, PS Khilchiyan, District Amritsar.

Though in some of the cases, the petitioner is stated to have earned acquittal, while he is on bail in other cases, but that fact is not of much help to the petitioner, since from the number of criminal cases registered against him, 7 being under Section 61 of the Punjab Excise Act, and 2 under the provision of NDPS Act, it comes out that he is a habitual criminal. Merely by release of a person on bail in a case does not mean that the said case is not to be taken into

consideration, while determining criminal antecedents of a person. Similarly, a person may be acquitted in a criminal case, but the fact can always be noticed that he was booked in the said criminal case, though ultimately that ended in his acquittal. The criminal jurisprudence of this country provides that the prosecution must prove its charge against the accused beyond a shadow of reasonable doubt and benefit of doubt always goes to the accused. Furthermore, an accused is presumed to be innocent unless proved guilty and it is generally said that hundreds of guilty persons may go scott free, but even one innocent person be not punished. It being so, many a times, the criminals are let off on account of failure of the prosecution to prove guilt of the accused to the hilt and on occasions due to technical reasons. Furthermore, many a times, the criminals are successful in influencing the prosecution witnesses by giving threat or inducement and in the process earn acquittal. Therefore, acquittal in a case does not make a case altogether disappear, with regard to the involvement of the accused in that case.

With such a shady past the petitioner is certainly not entitled to grant of pre-arrest bail. He having been found to be owner of the Canter in which the spirit alcohol was being carried, he cannot escape liability and accountability to explain as to how it was being done; from where the same was being brought and where it was being taken. The custodial interrogation of the petitioner which is more elicitation oriented, is required to unfold the complete story. In case the custodial interrogation of the petitioner is denied to the

Investigating Agency, that shall leave many loop holes, lacuna and gaps in the investigation, adversely affecting the same, which is uncalled for.

There is no merit in the present petition. The same stands dismissed, accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

10.2.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes/ No

Whether reportable Yes/ No