

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-8175-2021

Date of decision : 07.12.2021

Gurdayal Singh

... Petitioner

Versus

State of Punjab

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Chandan Singh Rana, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in FIR no.123 dated 19.11.2020 registered under Section 61(1)(a) of the Punjab Excise Act, 1914, at Police Station Laddowal, Ludhiana.

On 26.08.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

“Petitioner has applied for anticipatory bail in case FIR No.123 dated 19.11.2020 under Section 61 (i) (a) of the Punjab Excise Act, 1914, registered at Police Station Laddowal, Ludhiana.

As per allegation in the FIR, a secret information was received that Surjit Singh @ Siti, Mukhtiar Singh alias Sukha, Gurdayal Singh and some other unknown persons belonging to village Maniwal, Sangowal, Fullan and Pathran Wala Dera are distilling illicit liquor in huge quantity at abandoned places at village Khera Bet

and New Razapur on the banks of Sutlej river and are selling the same. They have dig earth in the fields on bank of the river Sutlej at many places and have placed tirpals (polithene) over it and lahan is concealed thereunder.

On receipt of the information, the raid was conducted and 18 bottles of illicit liquor along with two drums of iron, one Pipa (iron), one plastic pipe and 1,30,000 litres of Lahan was recovered from the various ponds made by the accused. However, the accused on seeing the police party, ran away from the spot.

Learned counsel for the petitioner argues that two co-accused namely, Surjit Singh and Mukhtiar Singh have already been arrested, thereafter, they have been released on bail. Recovery has already been effected. The petitioner is not involved in any such like case under Excise Act and he is ready and willing to cooperate with the investigation.

Adjourned to 02.11.2021.

Meanwhile, in the event of arrest, the petitioner shall be released on interim anticipatory bail to the satisfaction of the Arresting/ Investigating Officer, subject to the conditions provided under Section 438 (2) Cr.P.C. The petitioner is also directed to join the investigation and cooperate with the Investigating Agency, as and when required.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has already joined the investigation.

Learned State counsel, on instructions from ASI Bhupinder Singh, has submitted that the petitioner has joined the investigation on 06.09.2021 and is no more required for custodial interrogation but wishes to

three cases are under the Punjab Excise Act and one is under the IPC.

Learned counsel for the petitioner in order to rebut the said arguments has submitted that the petitioner is on bail in all the said cases. He has relied upon the judgment of Hon'ble Supreme Court in "***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***", reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

Keeping in view the above said facts and circumstances, the present petition for anticipatory bail is allowed and interim order dated 26.08.2021 is made absolute.

Nothing stated above shall be construed as an 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 petition.

(VIKAS BAHL)
JUDGE

December 07, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No