

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

CRM-M-9012-2021

Date of decision:-25.2.2021

Anil Malik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Satnam Singh, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Anil Malik, aged about 28 years, resident of House No.1955/31, Shastri Colony, Sonipat, an accused in FIR No.416 dated 4.11.2020 under Section 61 of Punjab Excise Act, 1914 (Haryana Amendment Bill-2020) and later on added Sections 420, 273, 467, 468, 471, 180 IPC and under Sections 61-4-2020 of Haryana Amendment of Excise Act, 2020, registered with Police Station Civil Lines, Sonipat.

Briefly stated, the prosecution story is that on 4.11.2020, on

receipt of secret information that Raju son of Sh.Rajender, resident of Panchsheel Colony, Sonipat was engaged in sale of illicit liquor, a raid was conducted at his house by the police, which led to recovery of 16 bottles of country-made liquor besides a sum of Rs.14,51,900/- in cash; Raju could not give satisfactory explanation with regard to recovery of huge amount of cash from his house; when interrogated, Raju revealed that he along with his mother Smt.Shashi had been in trade of sale of liquor without any permit of licence; Raju had suffered a disclosure statement on 6.11.2020 and got recovered 24 bottles of liquor make Santra; as per report received from the office of Chemical Examiner, the recovered liquor was spurious one containing methyl alcohol. Investigation revealed that petitioner Anil Malik was associated in manufacturing of spurious liquor in an illegal factory at village Naina Tatarpur and he has been supplying said liquor to various persons, some of them had died after consuming the same and 13 FIRs had been registered against him in that regard. Formal FIR was registered.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application. However, his such request was declined by learned Sessions Judge, Sonipat vide detailed order dated 24.12.2020. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief.

Notice of the petition was issued to respondent – State. Mr.Tanuj Sharma, AAG, Haryana has appeared on behalf of respondent – State and accepts notice on its behalf. He opposes the petition.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and 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 screen the culprits from arrest and custodial interrogation.

The petitioner is said to be involved in 13 more criminal cases which are under Punjab Excise Act as well as other provisions of law. The petitioner himself has given the details of other criminal cases in which he is involved, in that way, he comes out to be a habitual criminal. Such type of a criminal is certainly not entitled to be treated with a sympathetic approach.

Learned Sessions Judge, Sonipat in para No.5 of his order has observed as under:

5. Allegations against applicant are serious in nature. Spurious liquor was being manufactured in one illegal unit in village Naina Tatarpur and applicant is stated to be associated with the manufacturing of spurious liquor. Several persons have died in Districts Sonipat and Panipat and few people have lost their vision. As such, custodial interrogation of applicant is essential to ascertain as to from where methyl alcohol was being arranged which has been used to prepare spurious liquor. Moreover, the police is required to unearth the actual facts. If the applicant is interrogated under the protective umbrella of order of this Court, he is not likely to answer the questions in the right earnest. Hence,

granting anticipatory bail to the applicant would also hamper the free and fair investigation. In these circumstances, applicant does not deserve the concession of anticipatory bail. Accordingly, application in hand is dismissed. File be consigned to the record room after due compliance.

The observations by learned Sessions Judge are apt. The petitioner is said to have caused death of several innocent persons by supplying spurious liquor to them.

Furthermore, the custodial interrogation of the petitioner/accused is required for unfolding the complete story as to since when the petitioner is engaged in illicit distillation, from where he had been procuring material for that purpose and to which persons he had been supplying the illicit liquor receiving the money and where he had deposited/invested that money. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

In case of **State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268**, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

In view of the allegations, the petitioner does not deserve any

sympathetic treatment.

The petition stands dismissed accordingly.

25.2.2021

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No