

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

CRM-M-9009-2021

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.746 dated 5.11.2020 under Sections 61 and 72-F of Punjab Excise Act, 1914 (Haryana Amendment Bill-2020) and later on added Sections 420, 328, 272 IPC and under Sections 61-4-2020, 72F, 72(A), 4-20 of Excise Act, registered with Police Station Sonipat City, Sonipat

Briefly stated, the prosecution story is that on 5.11.2020 HC

Surender had received a secret information that illicit liquor was being sold in Verna car of black colour in Street No.2, Mayur Vihar, Sonipat; police party accordingly conducted a raid there; on being checked Verna Car bearing registration No.HR-10AD-2891 was found to have Sachin alias Bachi son of Angrej and Amit son of Krishan to be sitting inside it; however, Amit managed to run away from the spot, whereas Sachin @ Bachi was apprehended; when the car was checked, a beer box, six bottles of liquor make Blender Pride, three bottles make Royal Stag and two pints and one bottle make Teacher, one pint make White Blue and two bottles of country made liquor make Santra were recovered. The accused could not produce any licence of permit for possession of the liquor bottles, as such those were taken into possession. During the investigation, it revealed that petitioner Anil Malik was associated in manufacturing of spurious liquor in an illegal factory 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 9.2.2021. 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. As per FSL report, the recovered liquor make 'Santra' contained methyl alcohol. Several persons have died in Districts Sonipat and Panipat and few people have lost their vision due to consumption of spurious liquor. As such, custodial interrogation of applicant is essential to ascertain as to from where methyl and ethyl 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, Sonipat 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