

CRM-M-9875-2021

Date of Decision : 12.10.2021

Vikram Singh

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Aditya Sanghi, Advocate for the petitioner.
Mr. Naveen Kumar Sheoran, DAG, Haryana.

B.S. Walia, J. (Oral)

1. Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.592 dated 12.11.2020, registered under Sections 272/467/468/471/420 and 120-B IPC and Sections 63/65 of the Copy Right Act, 1957 at Police Station City Mahendergarh, District Mahendergarh, Haryana.

2. On 31.03.2021, the following order was passed:-

“Case is being taken up for hearing through VideoConferencing due to Covid-19 pandemic.

Learned counsel contends that as per the case set up by the prosecution, on 10.11.2020, Excise Officer along with police of Police Station Mohindergarh, carried out a raid on a wine shop and found that one Raju son of Sabha Ram, was sitting in the same, that there was a carton containing 12 bottles of Macdowel No.1, XXX Rum Celebration but the description label over the bottles was doubtful as it was not mentioned on the labels that the bottles were to be sold only in Haryana, consequently, out of 12 bottles, one was seized for purposes of chemical Examination while remaining

11 bottles were sealed in a packet. Learned counsel contends that the FIR was registered against the owner of the liquor vend namely Jagdish Parshad and Salesman, Raju, while the petitioner is merely a driver at the liquor vend and that no overt act has been attributed to him. Learned counsel further contends that raid was conducted in derogation of the Excise Policy, as per which, raid could be conducted only by a DSP along with an Inspector, Excise and Taxation Department, whereas in the instant case, the raid was conducted by an Assistant Sub Inspector, Police along with Inspector of the Excise and Taxation Department. Learned counsel contends that the alleged sampling of seized liquor has also been conducted in derogation of the Excise Policy inasmuch as instead of sample being drawn by the officials of the Health Department, the samples were drawn by the police, besides the sample drawn were sent for verification to the company instead of sending the same to the FSL. Learned counsel contends that on the owner of the liquor vend filing CRM-M-4717-2021, this Court while issuing notice of motion on 09.02.2021, was pleased to grant interim protection to the petitioner therein and that the petitioner in the instant case is on better footing.

Learned DAG, Haryana, on the other hands, states that disclosure statement was made by co-accused that the petitioner was the Manager of the liquor vend. He, however, fairly concedes that apart from the disclosure statement, there is no other material to connect the petitioner with the commission of the offence.

Adjourned to 23.04.2021.

In the meantime, the petitioner is directed to join investigation and fully cooperate with the police. However, in the event of arrest, the petitioner be released

on ad-interim pre-arrest bail subject to his furnishing bailbonds to the satisfaction of the Arresting / Investigating Officer. The petitioner shall abide by the conditions envisaged under Section 438(2) Cr.P.C., failing which, the interim protection granted to the petitioner, shall stand vacated.”

3. Today, learned counsel for the petitioner contends while learned State counsel on instructions from Inspector Mehar Singh confirms that pursuant to the orders of this Court dated 31.03.2021 and 23.04.2021, the petitioner joined investigation, fully cooperated with the police, was released on ad interim pre arrest bail and that his custodial interrogation is not required.
4. In view of the statement of learned State counsel, order dated 31.03.2021, passed by this Court, is made absolute. The petitioner shall abide with the conditions enumerated in Section 438(2) Cr.P.C. However, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.
5. Petition stands *disposed of* in the aforementioned terms.

(B.S. Walia)
Judge

12.10.2021
'Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>