

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 18088 of 2021 (O&M)

Date of decision : 25.5.2021

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Janak

.....Petitioner

vs.

State of Haryana

.....Respondent

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

Present: Mr. Inderjeet Singh, Advocate for the petitioner

Mr. Karan Garg, Assistant Advocate General,
Haryana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

CRM-14792-2021

This is an application for pre-ponment of hearing in the
main petition which is fixed for 2.9.2021.

Heard.

The application stands accepted. The main petition is
pre-poned and taken up today.

Main case.

This petition for pre-arrest bail under Section 438 Cr.P.C.,
has been filed by petitioner – Janak, aged about 40 years, s/o Molad
Ram, resident of village Nathanpur, PS Chhachhrauli, District

Yamunanagar, being accused in case FIR No. 92 dated 7.4.2021 for offences under Sections 61(1)(a) of the Punjab Excise Act (Haryana Amendment Act) 4, 2020 and Sections 420 and 120-B IPC, registered at Police Station Chhachhrauli, District Yamuna Nagar.

In nutshell, the prosecution story is that on 7.4.2021, a secret information was received by the Police that Janak Raj - present petitioner alongwith Ashok, Vivek, Anil and Chander Pal, was engaged in smuggling of country made liquor, which was being supplied to them by one Lovenish @ Lucky, to U.P. without paying tax to the Government. Accordingly a raid was conducted at the tubewell of Janak Raj – petitioner. Chander Pal was apprehended by the Police Party, whereas the present petitioner - Janak Raj, Ashok, Anil and Vivek managed to escape under the cover of darkness. 70 boxes of country made liquor were recovered from the spot. The investigation in the case started.

Having been nominated in this case, petitioner - Janak, had approached the Court of Sessions at Yamuna Nagar at Jagadhri, by way of filing an application for pre-arrest bail. However, such application filed by him, which was assigned to Additional Sessions Judge, Yamuna Nagar at Jagadhri, was dismissed vide order dated 16.4.2021. Therefore he has knocked at the door of this Court, craving for grant of similar relief, which request is being opposed by learned State counsel,

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

In the present case, the petitioner is specifically named in the FIR and there are serious and grave allegations against him of smuggling liquor to the State of U.P. avoiding payment of necessary tax in the process causing loss to the public exchequer. He comes out to be a habitual offender, in as much as he is stated to be involved in several other criminal cases, as pleaded by the petitioner himself, in para No. 6 of the petition, the details of which are as under :-

1. FIR No. 33 dated 17.4.2001, u/s 148, 149, 323, 324, 326, 506 IPC, PS Chhachhrauli;
2. FIR No. 6 dated 7.1.2006, u/s 148, 149, 324, 326 IPC, PS Chhachhrauli; and
3. FIR No. 111 dated 21.5.2017, u/s 148, 149, 186, 283, 341, 427, 435 IPC, PS Chhachhrauli;

The custodial interrogation of the petitioner is required for complete and effective investigation, so as to find out about the source from where they had procured the bottles of liquor and the person(s) to whom those were to be supplied; such other past transactions carried out by him; the persons helping him in this illegal trade; the names of his customers; money earned by him through smuggling of liquor and where such money is being spent. In case the custodial interrogation of the petitioner is denied to the investigating agency, that would leave many lacuna, loopholes and gaps in the investigation, adversely affecting the same, which is not called for.

It may be mentioned here that the custodial interrogation of

an accused is more elicitation oriented because a criminal having protection of pre-arrest bail would certainly not come out with all the information within his knowledge, fully knowing that the police would not be able to take any action against him, even if he remains quiet. Furthermore, the pre-arrest bail is a discretionary equitable relief, which is not to be granted in routine, but in exceptional circumstances. This relief is to be granted to the persons who may be involved in false criminal cases on account of political or such like reasons, to save them from harassment and any inconvenience and it is not to act as a shield for the criminals to provide protective cover to them from arrest and interrogation by the police.

As such the petition is without any merit and is dismissed accordingly.

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

25.5.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No