

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

201

CRM-M-18475-2021

Date of Decision : July 07, 2021

JEETU @ JITENDER

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Randhir Singh Hooda, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI. J.

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.281 dated 4.11.2020 registered under Sections 302 and 328 IPC (lateron Section 302 IPC was deleted and Sections 304, 201, 120-B and 420 IPC and Section 72A(a) of Punjab Excise Act, 1914 and Section 63 of the Copyright Act were added) at Police Station, Chhainsa, Faridabad.

As per the FIR, which has been reproduced in the petition itself, a complaint was lodged by one Keshav son of Jai Pal that on 31.10.2020 at about 6/7 p.m., his elder brother namely Charan Singh had gone to M/s Jai Kishan Filling Station Petrol Pump, Chhainsa to see his friend Jasmer @ Jasvir son of Mewa Singh as said Jasvir @ Jasmer was in service at the petrol pump. His brother had gone to the petrol pump on

the tractor and later on the complainant came to know that his brother Charan Singh and his friend Jasmer @ Jasvir had consumed liquor at petrol pump by asking Sanjeev Kumar son of Tantpal to bring the same. The said Sanjeev Kumar is involved in the supply of illicit liquor and his brother returned home late at night and his condition worsened on 1.11.2020 suddenly. He started vomiting and eye sight also diminished completely. On 2.11.2020, he was taken to Sarvodya Hospital, Sector-8, Faridabad and he did not gain consciousness after admission. He died on 4.11.2020 at 4.30 p.m. during treatment. The brother of the complainant is stated to have died due to consumption of a poisonous liquor which was supplied to him by one Sanjeev Kumar son of Tantpal.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case as the name of the petitioner does not figure in the FIR. He has submitted that no allegations attributable to the petitioner and he has been nominated as an accused on the basis of the disclosure statement made by one co-accused, namely, Ajeet who was arrested. He submitted that the disclosure statement of co-accused is not admissible in evidence and the present case has been planted upon the petitioner by the police. Learned counsel for the petitioner has submitted that no recovery has been made from the place of the petitioner. He has further submitted that the other main accused have been granted regular bail by the learned trial Court and has, therefore, sought for anticipatory bail in the present case.

On the other hand, Mr. Panwar, learned DAG, Haryana has submitted that a detailed reply dated 4.6.2021 has been filed by the

Assistant Commissioner of Police, Tigaon, District Faridabad with regard to the role of the petitioner in the present case. While referring to the aforesaid reply, learned DAG has submitted that it is a case where two persons, namely, Charan Singh and Jasvir @ Jasmer have died due to consumption of poisonous liquor which was brought to them by the co-accused Sanjeev. During the investigation of the case, one of the co-accused, namely, Ajeet, who was arrested and suffered his disclosure statement and disclosed the name of the petitioner regarding the involvement in the present case. The learned State counsel submitted that one Vikas Maratha is the main licensee of Nariyala liquor vend, who further sold the said Nariyala liquor vend to Rajesh and Amit Malik, co-accused. These two persons, namely, Rajesh and Amit Malik further sold the liquor vend to Gaurav and co-accused Dharmender by way of an oral agreement against a sale consideration of Rs.50 lacs including another liquor vend of village Mehmoodpur and the co-accused Gaurav and Dharmender @ Minder used to pay Rs.4 lacs as monthly installment in cash to co-accused Rajesh and Amit Malik.

The present petitioner, namely, Jeetu @ Jitender used to manufacture the spurious liquor in his plot dairy/poultry farm located at village Dhatir in conspiracy and with the help of his other co-accused, namely Ajeet son of Gheesa Ram, Dheeraj son of Ranbir and his relative Dheeraj resident of Palwal. The petitioner used to arrange the spirit, empty half, label, whole mark, colour of liquor and bottle cap with the help of his other companions/co-accused named above and used to supply the said spurious liquor after its packing to the liquor vendor on cheap

rates including the spurious liquor vend of village Nariyala. The place where the spurious liquor is being manufactured belongs to the petitioner Jeetu @ Jitender and the said place has been demarcated/identified by co-accused Ajeet son of Gheesa Ram and Dheeraj son of Ranbir under police custody. The learned State counsel further submitted that the present petitioner was one of the main accused because it was at his plot dairy/poultry farm where he was manufacturing the spurious liquor alongwith Ajeet and Dheeraj and the name of the petitioner has been nominated on the basis of disclosure statement of Ajeet. He further submitted that it was a case where two persons have died due to the consumption of spurious liquor and the custodial investigation of the petitioner was required to know the actual facts of the case and the liquor vend where the petitioner used to sell the spurious liquor and to recover more spurious liquor, if any, manufactured by the petitioner. There are total 12 accused in the present case out of which 8 accused have already been arrested whereas 4 accused including the petitioner are yet to be arrested. The challan against the other co-accused, namely, Ajeet, Dheeraj, Amit Malik, Dharmender @ Minder, Rajesh and Sanjeev Kumar has already been submitted before the Ilaqa Magistrate, Faridabad whereas co-accused Vikas Maratha has also been arrested whose challan is yet to be submitted and the case against Vikas Maratha is pending before the Ilaqa Magistrate on 1.7.2021. The learned State counsel further submitted that the charges in the present case have been framed on 5.3.2020 but no prosecution witness has been examined as yet due to restrictions owing to Covid-19 pandemic. He further submitted that since

the petitioner was actively involved in manufacturing of spurious liquor at his own dairy farm/poultry farm, the custodial investigation is necessary so that it can be ascertained as to how much spurious liquor has been manufactured and how much he has supplied at various other places apart from the present case. He submitted that the FIR was lodged on 4.11.2020 and the co-accused Ajeet made disclosure statement vide Annexure R-1 which is attached alongwith the reply on 23.12.2020 and the petitioner is absconding from that date and, therefore, challan could not be presented against him.

The learned State counsel further referred to para No.8 of the reply by stating that there are three other criminal cases pending against the petitioner. Para No.8 of the reply is re-produced as under:-

“(i) FIR No.289 dated 9.11.2020 under Sections 304, 201, 120-B, 420 IPC, Section 72A(a) of Punjab Excise Act and Section 63 of Copyright act, Police Station Chhainsa, is pending in the court of Ld. Additional Sessions Judge, Faridabad for 2.7.2021 for charge.

(ii) FIR No.436/2020, under Sections 308 and 328 IPC, Police Station Sadar Ballabgarh is pending in the court of Ld. Additional Sessions Judge, Faridabad for 17.8.2021 for prosecution evidence.

(iii) FIR No.444/2020, sections 304, 201, 120-B, 420 IPC, section 72A(a) of Punjab Excise Act and Section 63 of Copyright Act, Police Station Sadar Ballabgarh is pending in the Court of Ld. Additional Sessions Judge, Faridabad for 5.7.2021 for charge.”

I have heard the learned counsels for the parties.

In the present case, the petitioner was although not named in the FIR but thereafter on the arrest of the accused, namely, Ajeet, who made disclosure statement vide Annexure R-1, the name of the petitioner was nominated in the FIR. The submission made by learned counsel for the petitioner that since his name has not figured in the FIR, he may be granted anticipatory bail would not be sustainable in view of the fact that the nature and gravity of allegations against the petitioner on the basis of which his name was nominated are very grave and serious. As per the allegations, the petitioner alongwith two other co-accused manufactured spurious liquor at the dairy farm/poultry farm of the petitioner and the same was supplied in the present case to Sanjeev which was thereafter consumed by two persons, who unfortunately died. The learned State counsel has opposed the grant of anticipatory bail especially on the ground that the quantity of the manufacture of spurious liquor is to be ascertained and it is also to be ascertained as to which place apart from the present case, the spurious liquor was allegedly supplied by the petitioner and as to whether he has supplied to other persons or not. It is a settled law that while considering the grant of anticipatory bail, the Court has to strike a balance between the freedom of an individual on the one hand and the gravity and seriousness of the offence as well as the magnitude of the offence affecting large number of people on the other hand. The argument raised by learned counsel for the petitioner that no recovery has been effected from the place of the petitioner would also be of no significance because probably there was a lapse of time between the lodging of the FIR and the nomination of the petitioner as an accused. In

the present case, the magnitude of the allegations is so high that this Court considers the present case to be not a fit case for grant of anticipatory bail. Furthermore the petitioner has been absconding for more than six months and the challan has been presented on behalf of the other co-accused. The further argument raised by the learned counsel for the petitioner that the other co-accused, namely, Vikas Maratha, Sanjeev Kumar and Amit Malik have been granted regular bail would also not be sustainable in view of the fact that those accused were arrested and they have been enlarged on regular bail. However, investigation qua the role of the petitioner is yet to be done by the police.

In view of the above, no case is made out for grant of anticipatory bail in the present case.

Consequently, the present petition is, hereby, dismissed.

(JASGURPREET SINGH PURI)
JUDGE

July 07, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No