

CRM-M-18993-2021 (O&M)

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

**CRM-M-18993-2021 (O&M).
Decided on: November 10, 2021.**

Omprit

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Amardeep Sheoran, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for the grant of anticipatory bail in FIR No.61 dated 15.2.2021, registered under Section 61 of the Excise Act (Sections 420, 467, 468, 471, 485 and 120-B, registered at Police Station Kalanaur, District Rohtak.

As per the FIR, a secret information was received by the police that a vehicle No.RJ-14-GD-4597 was parked at Shane Haryana

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Dhaba and illegal liquor had been loaded in the same. On receiving the said information, SI Harender reached Shane Haryana Dhaba near Sat Jinda Kalyana College, Beri Road along with other officials and truck No.RJ-14-GD-4597 was found parked there. Finding the information reliable, Excise Inspector Ram Tirath was informed on his mobile number and was asked to reach the spot. Thereafter, excise inspector along with Constable Ankit and Vijay driver of the Govt. vehicle reached the spot and thereafter sheet (tirpal) of the truck was removed and 120 bags whereupon C.P.F. India Private Ltd. C/o Quality Nutrients Pvt. Ltd. D-94, Focal Point, Rajpura, was written were found in the truck. In the said bags rice husk was found. Behind the said bags, 190 cartons of quarter bottles of liquor make Angreji Imperial Blue and 192 cartons of half bottles of liquor make Imperial Blue and 82 cartons of bottles of liquor make Imperial Blue were found loaded. Samples of liquor were taken from the cartons and the remaining was sealed.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case and he was not even nominated in the FIR and it was only thereafter that on the basis of disclosure statement made by the co-accused who was arrested, the petitioner has been nominated in the present case. He has further submitted that other co-accused have been released on regular bail vide Annexures P-2, P-3 and P-4. He has further submitted that the reasons for nominating the petitioner in the present case is that earlier the petitioner was involved in four other FIRs and description of the same is given in para 13 of the

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petition and in all those four cases, the petitioner has since been acquitted and now the petitioner has been falsely implicated in the present case because earlier also he was involved in four cases which were also falsely planted upon the petitioner. He has further submitted while replying to the contents of the petition, an affidavit has been filed by the State in which in reply to para 13, the State has not denied that the petitioner has been acquitted in all the four cases.

He has further submitted that on 10.5.2021, this Court while issuing notice of motion had granted interim bail to the petitioner and thereafter on 9.8.2021, the learned State counsel had submitted that although the petitioner has joined the investigation but he has not cooperated with the investigation process and therefore, the petitioner was again directed to appear before the investigating officer and to cooperate with the investigation process. On 2.9.2021, the State again took up a stand that although the petitioner has joined investigation but he has not cooperated with the investigation process and therefore, this Court directed the petitioner to again join investigation and in case the investigating agency provides a questionnaire to the petitioner, the petitioner will be bound to answer the same.

Today, the learned State counsel has submitted that although the petitioner was given questionnaire but he has not properly answered the questionnaire supplied by the State. On being asked as to what questions the petitioner had not answered, the learned State counsel has submitted that he has not specifically answered as to from where he

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procured the fake number plates, fake chassis number and fake Engine number of the truck which was confiscated.

While replying to the argument raised by the learned State counsel, it has been argued by the learned counsel for the petitioner that the petitioner is neither the owner of the truck nor he is connected with the truck which was confiscated nor he is connected in any manner with the present offence and therefore, the questions put by the investigating officer could not be answered and the rights of the petitioner cannot be jeopardised on the basis of such a defence taken by the State in this regard. Counsel for petitioner further submitted that the petitioner has joined investigation and has fully cooperated with the investigation process and no recovery is to be made from the petitioner and the petitioner also undertakes to further join the investigation as and when required by the investigating officer.

I have heard the learned counsel for the parties.

In pursuance of the interim orders passed by this Court has joined investigation but there is a dispute with regard to cooperation by the petitioner in the investigation process. The only plea taken by the State is that although the petitioner has joined investigation but he has not disclosed as to from where he procured the fake number plates, fake chassis number and fake Engine number of the truck which was confiscated. There is nothing on the record to show that the petitioner is owner of the truck which was confiscated and it was only on the basis of disclosure statement made by the co-accused that the petitioner has been nominated in the present case. The petitioner was earlier involved in 4 cases but according to

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the learned counsel for the petitioner, he has since been acquitted in all those four cases.

Therefore, considering the totality of the circumstances of the present case, I deem it fit and proper to allow the present petition. Consequently, the present petition is allowed. Interim order dated 10.5.2021 is hereby made absolute. It is directed that the petitioner shall continue to appear before the Arresting/Investigating Officer and join the investigation and thereafter also as and when called upon to do so. The petitioner shall abide by all the conditions as provided under Section 438 (2) Cr.P.C.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

November 10, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No