

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

CRM-M-17111-2020(O&M)

Date of decision:-31.3.2021

Kuldeep Singh @ Goggi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Kuldeep Singh Siwach, Advocate for
Mr.P.S. Dhaliwal, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Kuldeep Singh @ Goggi, aged about 33 years, resident of Ward No.1, Patti Batuha Longowal, Tehsil Longowal, District Sangrur, an accused in FIR No.95 dated 14.6.2020, under Section 61 of Punjab Excise Act, 1914, registered with Police Station Longowal, District Sangrur.

Briefly stated, the facts of the case as per the prosecution

story are that on 14.6.2020, a police party led by ASI Gurbax Singh during the course of *NAKABANDI* in the area within the jurisdiction of Police Station Longowal, District Sangrur had apprehended Harjinder Singh @ Kala and recovered 24 bottles of country-made liquor from him. He was accordingly arrested in this case. After registration of the FIR, investigation in the case had started. Harjinder Singh @ Kala was interrogated during the course of which, he disclosed that he had procured the recovered liquor from Kuldeep Singh @ Goggi (present petitioner).

After being nominated in this case, apprehending his arrest, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to learned Additional Sessions Judge, Sangrur. However, his such request was dismissed by learned Additional Sessions Judge, Sangrur vide detailed order dated 25.6.2020. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief, which request is being opposed by the State counsel.

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.

As per the written reply filed by the State in para No.3, it is mentioned that petitioner is involved in 3 more criminal cases as per details below:

- (i) FIR No.43 dated 27.4.2015, Under Section 61 of Excise Act, P.S. Longowal.
- (ii) FIR No.109 dated 8.6.2015, Under Section 22 of NDPS Act and 61 of Excise Act, P.S. City Sunam.
- (iii) FIR No.87 dated 6.8.2020 under Section 61 of Excise Act, P.S. Cheema.

The petitioner is shown to have been convicted and sentenced for an offence under Section 61 of Punjab Excise Act, though acquitted in another case under NDPS Act and Punjab Excise Act, whereas one case registered against him is stated to be at the stage of investigation. It comes out that the third case was registered against the petitioner/accused while he was on bail in the instant case. Thus it transpires that the petitioner is a habitual criminal and has not desisted from indulging in criminal acts repeatedly. Therefore, on account of past police record of the petitioner, he is not entitled to concession of anticipatory bail.

The contention of learned counsel for the petitioner that he is not named in the FIR does not get the guilt of the accused diluted since when arrested with contraband, Harjinder Singh @ Kala had stated that he had purchased it from the present petitioner/accused. Such disclosure statement of co-accused can certainly be taken into consideration for providing lead in investigation and even during trial it is admissible under Section 30 of the Indian Evidence Act.

Though the petitioner had joined the investigation but as informed by learned State counsel, he has not rendered full cooperation and had not disclosed all the facts within his knowledge.

Furthermore, the custodial interrogation of the petitioner/accused is required for complete and effective investigation to find out as to from where he had been procuring the contraband and to which persons he had been supplying the same. 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.

Therefore, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

31.3.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No