

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

* * *

CRM-M- 30917 of 2020
Date of Decision: 14.01.2021

Sunita

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sachin Ohri, Advocate for the petitioner.
Ms. Samina Dhir, DAG, Punjab.

* * *

Avneesh Jhingan, J. (Oral)

The matter is taken up for hearing through video conference due to
COVID-19 situation.

On 8.10.2020, this Court passed the following order:

“This petition is filed seeking anticipatory bail in FIR No. 124 dated 29.7.2020 under Section 61 of Punjab Excise Act, 1914, registered at Police Station Sadar Gurdaspur, District Gurdaspur.

As per the FIR, police received an information from a special messenger that the petitioner resident of Halla is selling illicit liquor from her house. A raid was conducted. The petitioner was seen sitting on a 'plastic can' inside the gate in a corner of the compound. It is alleged that on seeing the police party she disappeared inside the village. Recovery of 29 bottles of 750 ML each and bottle of

570 ML was made. Apprehending arrest, the petitioner moved the petition for anticipatory bail. The same was rejected on 7.8.2020. Hence, the present petition.

Learned counsel for the petitioner relied upon the disability certificate issued by the Civil Surgeon, Gurdaspur. As per the said certificate, there is 90% walking disability of lower limb of the petitioner.

On 7.10.2020 the following order was passed:

“This is a petition for anticipatory bail in FIR No.124,dated 29.07.2020, under Section 61 of the Punjab Excise Act, 1914 registered at Police Station Sadar Gurdaspur, District Gurdaspur.

As per the allegations in the FIR, there was an information that Sunita was selling illicit liquor from the house. On the said information, raid was conducted and at that time a lady was sitting with a plastic can inside the gate in a corner of the compound. On seeing the police party, she disappeared in the dark and left the plastic can of illicit liquor. 29 bottles of 750 ml each and a bottle of 570 ml were recovered. Along with the petition for anticipatory bail, a disability certificate issued by the Civil Surgeon, Gurdaspur is annexed, stating:-

“Specimen signatures appears above and identification marks shown being has been medically examined and found that he/she is case of

PP RP both lower limbs. Power of right lower limb 0 to 3 grade. Power of left lower limb 3 to 4 grade. Disability is 90% and is permanent 90%

21.08.1997

As such he/she physically handicapped.

Identification marks.

Scar on left hand.”

Learned State counsel, on instructions, submits that there are other cases pending against the petitioner and she did not ran away but disappeared on seeing the police party.

On a pin-pointed query of the Court from the State counsel to justify the fact that from a house raid by a police party, how a lady with 90% permanent disability of lower limbs disappeared, she seeks time to have instructions and to file an affidavit of some higher official.

List on 8th October, 2020.”

Today the State counsel has filed an affidavit of

Rajinder Singh Sohal, Senior Superintendent of Police, Gurdaspur. The print out of affidavit is taken and placed on record. In the affidavit it has been stated that there are nine more cases registered against the petitioner. With regard to disability, the relevant para is quoted below:

"3. That as per the Annexure P-2, the disability certificate of the petitioner was issued by the Civil Surgeon, Gurdaspur vide No. GSG/89-614 dated 21.08.1997. During the verification of SHO Police Station Sadar, Gurdaspur, it has been verified that the petitioner can walk with limping and there is no trouble in her walking. It has also been clarified that raid was conducted at about 8:00 pm and petitioner took benefit of dark and disappeared inside the Village through the neighbouring house."

Considering the fact that the disability certificate has not been disputed, however, it is stated that the petitioner can walk with a limb and there is no trouble in walking, prima-facie, cannot be accepted. As there is a certification of 90% of lower limbs, be that as it may, it is difficult to accept that a police party raided a house on the basis of an information received yet a differently abled lady seen at the spot is able to dodge the police and disappear.

It is pertinent to note here that FIRs are being relied upon, five are of the year 2009 to 2012 and rest of the four matters are still under investigation.

Considering the quantity of recovery made coupled with the disability, the petitioner is granted interim bail subject to his joining investigation within two weeks from today. She shall be bound by the conditions as envisaged under Section 438(2) Cr.P.C."

Learned counsel for the State, on instructions from SI-Kuldeep Singh submits that the petitioner has joined the investigation and her custodial interrogation is not required.

In view of the statement made by learned counsel for the State, the order dated 8.10.2020 is made absolute.

The petition stands disposed of.

(AVNEESH JHINGAN)
JUDGE

14th January, 2021
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No