

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

**CRM-M-34164-2020
Date of decision: 04.03.2021**

Jagdev Singh @ Gora Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. N. S. Dandiwal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No.171 dated 2.10.2020 registered under Sections 61 and 78(2) of the Punjab Excise Act, 1914 at Police Station City South, Moga, District Moga.

The operative part of the order dated 28.10.2020, vide which the petitioner has been granted interim bail, is reproduced below:

“Counsel for the petitioner has submitted that as per the allegations in the FIR, registered against Gora Singh and one un-named person, it is stated that the police party stopped one Honda City car wherein the petitioner was the driver and one person was sitting on the co-driver seat and both of them ran away from the spot. Thereafter, on search of the car, 44 cases containing Whisky meant for sale in Arunachal Pradesh was recovered. Counsel for the petitioner has relied upon certain documents/medical history of the petitioner to suggest that he has underwent the surgery of left foot with ankle joint recently and the petitioner is unable to run because of his physical disablement. Counsel for the petitioner has also submitted that though the investigating team consists of 07 police officials but still the petitioner succeeded in running away from the spot,

which is highly improbable story. It is also submitted that the petitioner has no such history of involvement in any other cases.

It is worth noticing that in CRM-M No.31579 of 2020, Malkit Singh @ Kaka vs State of Punjab, certain directions were issued by this Court, to the Additional Director General of Police, Bureau of Investigation, Punjab, which are reproduced as under:-

“Accordingly, Additional Director General of Police, Bureau of Investigation, Punjab is directed to collect such FIRs mainly under the Excise Act, where the accused ran away from the spot in presence of the police party and try to find out the reasons as to why in number of FIRs, same thing is happening. The Additional Director General of Police, Bureau of Investigation, Punjab is further directed not to depute such police officials especially those who are overweight and unable to run and who have failed to nab the accused at the spot, in investigation of such cases despite the fact that the accused persons are either of middle age and even older person, as it is noticed in number of cases. Therefore, the physical fitness test of all the police officials, who failed to arrest the accused person, be conducted at the Police Training Academies in presence of a team of doctors and if need be, all these police officials be deputed for physical training session of three months to make them physically fit for conducting the raid or in the alternative, the Additional Director General of Police, Bureau of Investigation, Punjab will explore the possibility of deputing young and fit officials, where the raid under the Excise Act is to be conducted. The report of the ADGP, Bureau of Investigation, Punjab be submitted before the Registrar General of this Court within a period of three months from today.”

Since such type of cases are being repeated where the police party is unable to arrest the accused persons which leads to an inference that either the person has been falsely implicated or because of the physical incapability of the police party, the accused persons succeeded in running away from the spot.

Considering the fact that in the instant case, the petitioner has no such history of involvement in the Excise Act, list again on 17.02.2021.”

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 28.10.2020, has already appeared before the SHO/Investigating Officer and has joined the investigation.

Learned counsel for the State, on instructions from the Investigating Officer, has not disputed the factual position and submits that the petitioner has joined the investigation and is no more required for any further investigation.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 28.10.2020, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

04.03.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No