

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

205

**CRM-M-43480 of 2020
Date of Decision:19.07.2021**

Naresh Kumar and others

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rajnikant Upadhyay, Advocate,
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 13.01.2021 the following order was passed:-

“Learned counsel for the petitioners herein would contend that the petitioners have been falsely implicated in the instant FIR. It is contended that the petitioners have nothing to do with the alleged commission of offence and there is no other single complaint or FIR pending against them.

Notice of motion.

Mr. P.P. Chahar, DAG, Haryana, who is present through the medium of Video Conferencing, accepts notice on behalf of respondent-State and submits that there is a death that took place on account of the consumption of illicit liquor made by the petitioners and their family members, one of whom is already in custody. It is contended that a Special Investigation Team (SIT) has been

constituted and viscera report is awaited.

Adjourned to 25.3.2021.

Meanwhile, the petitioners are directed to join the investigation within a period of one week and on their doing so, the petitioners be released on interim bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.”

Thereafter on 25.03.2021 the following order was passed:-

“Mr. Sant Lal Barwala, Advocate puts in appearance on behalf of the complainant and files the power of attorney, which is taken on record. He does not oppose the grant of anticipatory bail to the petitioners.

Status report filed by the respondent-State by way of affidavit of Dr. Ravinder Kumar, HPS, DSP City, Sonipat with the Registry is taken on record wherein, it is stated that the petitioners herein are not cooperating, as such, Section 180 of IPC has been invoked against them.

On this, counsel for the petitioners herein submits that the petitioners herein will put in an appearance before the Investigating Officer once again and cooperate.

This court is seriously considering this matter regarding production of illicit liquor wherein, on consumption, the people are dying.

Adjourned to 19.07.2021.

The petitioners herein are directed to rejoin the investigation before the Investigating Officer once again within a week.

Interim order to continue.”

Initially a status report by way of an affidavit of the DSP City, Sonipat, has been filed on behalf of the respondent State, from which learned State counsel points to the fact that the petitioners are not cooperating in any manner despite their co-accused (wife of petitioner no.1 and mother of petitioners no.2 and 3) having made a statement before the police (as contended), that it was her husband and sons who used to purchase illicit liquor and sell it, though she did not know from where they purchased it and further, that upon leaving home after a person had died upon consuming it (as alleged), they took 10 to 15 boxes of liquor lying at the house, which “only they can disclose”.

Learned State counsel submits that the interim order passed in favour of the petitioners therefore does not deserve to be continued.

Learned counsel for the petitioners on the other hand submits that in fact the investigating officer was even refusing to let the petitioners join in the investigation, upon which they moved an application before the Illaqa Magistrate concerned to summon the investigating officer to enable them to join investigation, which consequently was done and thereafter they were again asked to produce some liquor boxes as were allegedly missing.

He submits that the petitioners' stand being that they do not have any liquor boxes and with their further contention being that they had nothing do with any illicit liquor sold to anyone, including the person who died (allegedly after consuming it), simply because the investigating officer is wanting to recover something which is not recoverable from them, the interim order passed in favour of the petitioners does not deserve to be vacated.

Having considered the matter, it is to be noticed by this court that the

FIR was got registered by the complainant alleging therein that on 04.11.2020 her husband had died and her son had told her of a stomach pain, with a post mortem examination on the body of her husband having been conducted.

She had further stated that petitioner no.1, his wife and his two sons (i.e. petitioners no.2 and 3) were involved in selling illicit liquor in the colony and that her husband had purchased and consumed it, due to which he died.

Mr. Poswal, learned State counsel, submits that he has now also received a copy of the FSL report as regards the viscera examination of the deceased, which contained ethyl alcohol and methyl alcohol.

Considering the above, without making any comment on the actual merits of the case, I do not think that it is an appropriate case where the interim order passed in favour of the petitioners can be continued; consequently this petition is dismissed, with the interim order vacated.

July 19, 2021
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No