

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-53359-2021

Date of decision : 21.12.2021

Manjit Singh and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Prateek Pandit, Advocate
for the petitioners.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in FIR no.162 dated 21.08.2021 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Subhanpur, District Kapurthala.

The present petition has been filed by two petitioners, i.e. petitioner no.1-Manjit Singh and petitioner no.2-Balkar Singh @ Bahla.

Learned counsel for the petitioners at the outset submits that as far as the bail petition qua petitioner no.2 is concerned, petitioner no.2 be permitted to withdraw the same and petitioner no.2 would surrender before the police within a period of 10 days from today and prays that in case petitioner no.2 surrenders within the aforesaid time and applies for regular bail thereafter, the trial Court be directed to decide the said application

of said application.

In view of the statement made by learned counsel for the petitioners, the present petition qua petitioner no.2 is dismissed as withdrawn with a direction to petitioner no.2 to surrender before the police within a period of 10 days from today and in case petitioner no.2 after surrender within the aforesaid time, applies for regular bail, the trial Court is requested to decide the said application as expeditiously, preferably within a period of 5 days from the date of filing of said application.

With respect to petitioner no.1, learned counsel for the petitioner submits that even as per the prosecution version, alleged recovery of illicit liquor has neither been made from petitioner no.1 nor from the place which is owned by petitioner no.1. It is submitted that as per FIR, the illicit liquor has been recovered from open field of co-accused Balkar Singh @ Bahla. It has also been submitted that the recovery has been carried out without compliance of Section 100 Cr.P.C. and Harbhajan Singh @ Bhajan @ Gurbajan Singh, co-accused of petitioner no.1, who is similarly placed as the present petitioner, has been given the benefit of anticipatory bail vide order dated 15.12.2021 passed in **CRM-M-39981-2021** titled as **“Harbhajan Singh @ Bhajan @ Gurbajan Singh vs. State of Punjab”**. It is further submitted that petitioner no.1 is not involved in any case.

Notice of motion.

On advance notice, Mr. Sarabjit Singh Cheema, AAG, Punjab, appears and accepts notice on behalf of the respondent-State and has submitted that he is fully prepare to argue the matter and assist this Court. He has opposed the present petition for anticipatory bail and has submitted that the FIR was registered on the basis of secret information against the

petitioner and other co-accused and in pursuance of the said secret information, as per the FIR, the recovery of illicit liquor was effected from the field belonging to Balkar Singh @ Bahla. However, the fact that the case of petitioner no.1 is similarly placed of that Harbhajan Singh @ Bhajan @ Gurbajan Singh, has not been disputed.

Keeping in view the above said facts and circumstances moreso the fact that even as per prosecution version, no recovery of illicit liquor has been effected from petitioner no.1 nor the same has been effected from any place owned by petitioner no.1, and also the fact that petitioner no.1 is not involved in any other case and co-accused of the petitioner, who is similarly placed as the petitioner, i.e. Harbhajan Singh @ Bhajan @ Gurbajan Singh has already been granted benefit of anticipatory bail vide order dated 15.12.2021 passed in CRM-M-39981-2021, the present petition qua petitioner no.1 is allowed and in the event of arrest, petitioner no.1 shall be released on bail subject to furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. The petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of Cr.P.C.

In view of the above, the present petition stands disposed of.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

December 21, 2021

Davinder Kumar