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

CRM-M-2636-2022

Date of decision : 21.01.2022

Vishal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. D.V. Dhindsa, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.905 dated 31.12.2021 registered under Sections 379, 120-B and 34 of the Indian Penal Code, 1860 at Police Station Indri, District Karnal (Haryana).

Learned counsel for the petitioner has submitted that in the present case, even as per the allegations levelled in the FIR, no actual theft of 516 caps of liquor bottles had taken place and the said caps/lids were alleged to have been kept at a place other than the designated place. It is further submitted that four persons namely Lakhbir, Malkeet, Mangal Singh and Ankit, were the persons, who were keeping the caps of liquor

bottles at a place other than the designated place. It is argued that the petitioner was not caught indulging in the alleged act alongwith the co-accused and the petitioner had been implicated only on the basis of disclosure statement of the said co-accused and nothing had been recovered from the petitioner.

Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu**, reported as **2021(1) RCR (Criminal) 1**, an order passed by Coordinate Bench of this Court dated 17.06.2020 in CRM-M-12051-2020 titled "***Mewa Singh Vs. State of Punjab***", and an order of another Coordinate Bench dated 16.07.2021 passed in CRM-M-12997-2020 titled as "***Daljit Singh Vs. State of Haryana***" to contend that in such like cases if a person has only been proceeded against on the basis of disclosure statement of co-accused and no recovery has been effected from the petitioner, then he should be granted the benefit of anticipatory bail.

It is further submitted that the petitioner is an employee of the same company for the last more than 4 years and has never committed any such illegal act. It is further submitted that the petitioner is not involved in any other case.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has

opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that 516 caps of liquor bottles were kept at a place other than the designated place for using the same for wrong purpose and four persons namely Lakhbir, Malkeet, Mangal Singh and Ankit, were caught while doing the said act and the petitioner has been implicated only on the basis of disclosure statement and thus, is involved in the present case.

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not in dispute that no actual theft had taken place and the said 516 caps of liquor bottles were only kept at a place other than the designated place. It is further not in dispute that the petitioner was not apprehended while indulging in the act of keeping the said caps in a place other than the designated place. Thus, the present case, at best, can be stated to be a case of attempt to commit theft. The petitioner has been implicated solely only on the basis of the disclosure statement of co-accused and no recovery has been effected from the petitioner and the petitioner is stated to be not involved in any other case. 516 caps of liquor bottles have already been recovered and thus, the custodial interrogation of the petitioner is not required.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating

Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

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 application.

21.01.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No