

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-6861-2022 (O&M)
Date of Decision:-28.4.2022

Makhan ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Tranjit Kaur Hundal, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
assisted by ASI Jaswinder Singh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered vide FIR No. 213 dated 31.12.2021 under Section 61 of the Punjab Excise Act, 1914 at Police Station Nakodar Sadar, District Jalandhar (Rural).
2. At the time of issuance of notice of motion on 18.2.2022, the following order was passed :

“By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 213 having been registered at Police Station Nakodar Sadar, District Jalandhar (Rural), on 31.12.2021, alleging therein the commission of an offence punishable under the provisions of Section 61 of the Punjab Excise Act, 1914.

Learned counsel for the petitioner submits that the premises from where the '*Lahan*' and liquor are alleged to have been recovered by the investigating

agency, does not belong to the petitioner; presently though she does not have instructions as to whom it actually belongs to.

Further, she submits that though the secret information alleged to have been received was to the effect that the petitioner and his companions were distilling illicit liquor in a '*Haweli*', eventually it is only the petitioner who has been named as an accused despite the fact that the premises does not belong to him.

Notice of motion.

On the asking of the court, Mr. Sidakmeet Sandhu, A.A.G, Punjab, accepts notice on behalf of the respondent-State.

Adjourned to 28.04.2022.

A gazetted officer is directed to file a detailed reply to each paragraph of the petition, also stating as to why no witnesses were joined in any raid conducted; and if the answer is (as it usually given by the investigating agency), that no witness was willing to join in such raid, then whether any proceedings under the provisions of Section 100 (8) of the Cr.P.C. have been initiated against any such person who was asked to join as a witness and did not join.

In the meanwhile, upon the petitioner joining investigation within one week, in case he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.”

3. Learned State counsel, upon instructions from ASI Jaswinder Singh, has informed that pursuant to interim directions issued by this Court the petitioner has since joined investigation and that he is not required for any custodial interrogation. Learned State counsel has, however, informed that

the petitioner happens to be involved in 3 other cases under the NDPS Act as well.

4. Having regard to the fact that the petitioner was never apprehended at the spot and has since joined investigation and is not stated to be required for custodial interrogation, the present petition is accepted and the interim directions issued by this Court vide order dated 18.2.2022 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
5. This Court while issuing notice of motion on 18.2.2022 had directed that some gazetted officer of the police shall file a detailed reply as regards the joining or non-joining of the witnesses when the raid was conducted. The relevant extract from the aforesaid order reads as follows :-

“A gazetted officer is directed to file a detailed reply to each paragraph of the petition, also stating as to why no witnesses were joined in any raid conducted; and if the answer is (as it usually given by the investigating agency), that no witness was willing to join in such raid, then whether any proceedings under the provisions of Section 100 (8) of the Cr.P.C. have been initiated against any such person who was asked to join as a witness and did not join.”
6. The State in compliance of the directions issued on 18.2.2022 has filed reply wherein it has been mentioned that one Surinderpal Singh was associated as a witness whose statement is also annexed as Annexure R-1.

7. In view of the aforestated position, no further directions are required to be issued in respect of the aforesaid aspect.
8. The petition stands disposed off accordingly.

28.4.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No