

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CRM-M-8325-2022
Decided on : 25.02.2022

Sulakhan Singh and others

. . . Petitioners

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Dinesh Trehan, Advocate
for the petitioners.

Mr. Sarabjit singh, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No. 182 dated 03.11.2021 under Section 61/1/14 of the Excise Act, 1914 registered at Police Station Sidhwan Bet, District Ludhiana Rural.

Learned counsel for the petitioner has submitted that in the present case, the alleged recovery was effected from the edge of Satluj river at Village Sherewal and the petitioners are neither the owners of the said place, nor are the lessees of the said place. It is further submitted that although, as per the FIR, there was a secret information and in pursuance of the same, the police party consisting of six police officials had raided the said place, yet it has been alleged that the petitioners managed to flee away. It is submitted that it is highly unlikely that in the presence of so many police officials, the petitioners

would be able to flee away from the said place. It is further submitted that the recovery in the present case has already been effected and the petitioners are ready to join the investigation and cooperate with the same.

Learned State counsel is fully prepared to assist the Court and has opposed the present application for anticipatory bail and has submitted that all the three petitioners had been recognized by the Investigating Officer who had gone to conduct the raid and the present petitioners No. 1 to 3 are also involved in another case.

Learned counsel for the petitioners, in rebuttal, has submitted that the petitioner Nos. 1 and 3 have already been granted bail in the said case and has submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioners has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others*** 2012 (2) SCC 382 reference has been made to the relevant portion of paragraph 6 which is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been

charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

It is not in dispute that the petitioners were not apprehended at the spot. It is also not in dispute that the place from where the alleged recovery of illicit liquor has been made at the edge of Satluj river in village Sherewal and the petitioners are neither the owners of the said land, nor have any lease rights in the same. The recovery of the illicit liquor has already been effected. In the present case, it has been stated in the FIR that in pursuance of the secret information received, the police officials had gone to the alleged spot after having made full preparation and thus, the matter is debatable as to how the petitioners managed to escape from the spot when the police consisting of 6 officials, had reached the said spot fully prepared to conduct the raid.

Keeping in view the abovesaid facts and circumstances and also in view of the law laid down in Maulana's (*supra*) case, the present petition for anticipatory bail is allowed and in the event of arrest, petitioners are granted the concession of anticipatory bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) Cr.P.C.. However, the petitioners shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioners fail to join the investigation or do not cooperate with the investigation, then the State

would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioners.

However, nothing stated above shall be construed as a final 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.

(VIKAS BAHL)
JUDGE

February 25th, 2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No