

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(203)

CRM-M-9299-2021

Date of decision: - 15.02.2022

Krishan Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Sukhpreet Kaur, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.140 dated 14.07.2020, under Sections 61/01/14 of the Punjab Excise Act, 1914, registered at Police Station Bilga, District Jalandhar Rural.

On 26.02.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner contends that the petitioner was found driving the motorcycle. One person was sitting as pillion rider. On seeing the police party, they threw away the tubes and fled away from the spot. On checking, illicit liquor was found in the tubes. On weighing, the liquor was found to be 180 bottles. Petitioner was

allegedly identified by Constable Amandeep Singh.

Notice of motion for 20.05.2021.

Till the next date of hearing, arrest of the petitioner shall remain stayed.”

On 21.12.2021, it was pointed out that in addition to Section 379 of IPC, Section 482 of IPC has also been added in the FIR.

On 25.01.2022, a Co-ordinate Bench of this Court while allowing an application has permitted to add offences under Sections 379 and 482 IPC. The said order is reproduced as under: -

“The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

CRM-2091-2022

Allowed as prayed for.

The offences under Section 379 and 482 IPC are permitted to be added.

Main

The learned counsel representing the State prays for a short adjournment.

Adjourned to 15.02.2022.

Interim order to continue.

January 25, 2022

(ANIL KSHETARPAL)

Ay/Chetan

JUDGE.”

Learned counsel for the petitioner has submitted that in the present case, the petitioner has been falsely implicated, inasmuch as, he was not apprehended at the spot in spite of the fact that there were several police officials present at the alleged spot of occurrence. It is further submitted that the petitioner, along with co-accused, has been stated to be on the motorcycle and from them the recovery effected has been stated to be of 180 bottles, which is physically not possible. It is also submitted that neither there was any independent witness nor any person has

recognized the petitioner and as per the allegations in the FIR, it was constable Amandeep Singh, who had identified the petitioner. It is also stated that the motorcycle, even as per the FIR, has already been taken into possession and even the said bottles have already been recovered and no further recovery is required to be made from the petitioner.

Learned State counsel, on the other hand, has opposed the present petition of anticipatory bail and has submitted that in the present case even the motorcycle on which the petitioner was going, along with his co-accused, was a stolen vehicle.

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

It is not in dispute that the petitioner was not apprehended at the spot in spite of the presence of several police officials. The question as to whether 180 bottles can be carried by two persons while riding on a motorcycle, is a matter of debate, which would be considered at the time of trial. The said bottles as well as motorcycle have already been recovered by the police. The petitioner has raised the plea that he has been falsely implicated and it was only constable Amandeep singh, who has been stated to have recognized the present petitioner. The said plea cannot be rejected outrightly.

Keeping in view the above-said facts and circumstances, the present petition for grant of anticipatory bail to the petitioner is allowed, on his furnishing bail bonds/surety bonds to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. and the interim order dated 26.02.2021 is made

absolute.

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.

February 15, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes