

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

CRM-M-14016-2021 (O&M)
Date of Decision:-27.9.2022

Ajay Kumar and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Daman Jeet Bhoriwal, Advocate for the petitioners.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Kashmir Lal.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioners seek grant of anticipatory bail in respect of a case registered vide FIR No.38 dated 1.4.2020 at Police Station City-2, Abohar, District Fazilka, under Section 61/1/14 of Punjab Excise Act, 1914.
2. The allegations in nutshell are that 564 bottles of country made liquor were recovered from the accused.
3. At the time of issuance of notice of motion, the following order was passed on 26.8.2021:

“This is a petition filed under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 38 dated 1.4.2020 registered under Section 61/1/14 of Punjab Excise Act, 1914 at Police Station City 2, Abohar, District Fazilka.

The prosecution case is that 25 boxes containing 300 bottles liquor make Santra, 20 boxes containing 240 bottles liquor make

Everday, Punjab, 1 box containing 12 bottles liquor make Rano and 1 box containing 12 bottles make Ranjha were recovered from possession of accused. Though there are 2 other cases pending against petitioners under the Excise Act, however, they are on bail in said cases.

Adjourned to 2.11.2021.

In the meanwhile, in the event of arrest of petitioners, they shall be released on interim anticipatory bail to the satisfaction of Arresting Officer/Investigating Officer. They will join investigation as and when called for and cooperate in same. They will abide by conditions of Section 438 (2) Cr.P.C. ”

4. Learned State counsel, upon instructions from the Investigating Officer, has informed that pursuant to interim directions, while petitioner No.2-Surjeet Yadav has joined investigation but petitioner No.1-Ajay Kumar has not joined investigation till date. Learned State counsel has also informed that petitioner No.2 is not required for any custodial interrogation.
5. This Court finds that ever since issuance of directions on 26.8.2021 and again on the last date i.e. 15.3.2022 till date i.e. during a period of more than one year, petitioner No.1 has not joined investigation.
6. The learned State counsel has informed that petitioner No.1 otherwise stands involved in several other cases.
7. In view of the aforestated position, where petitioner No.1, who has not chosen to join investigation, does not deserve the concession of anticipatory bail and consequently, the petition on his behalf is dismissed.
8. However, petitioner No.2, who is stated to have joined investigation and is not required for any custodial interrogation and infact even challan stands presented qua him, the petition qua petitioner No.2 is accepted and the

interim directions issued by this Court vide order dated 26.8.2021 are hereby made absolute qua petitioner No.2, subject to the condition that petitioner No.2 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.

27.9.2022

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No