

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17431-2021
Date of decision: 17.02.2022

Anil Malik
...Petitioner(s)

Versus

State of Haryana
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Satnam Singh Sishodia, Advocate
for the petitioner(s).

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
754	07.11.2020	City Sonipat	61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and later on added Sections 420, 328, 272 IPC & Sections 72-A, 1, 4 Excise Act, 2020

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. As per bail application and the response of the State, the petitioner has following criminal record:-

Sr. No.	FIR No.	Date	Offences/Sections	Police Station
1.	416	4.11.2020	61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and later on added Sections 420, 273, 467, 468, 471, 180 IPC & Sections 61, 4 of the Excise Act, 2020.	Civil Lines, Sonapat
2.	744	4.11.2020	304, 420 IPC and Section 72-a of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and later on added Sections 272 and 328 IPC.	Sonapat City, District Sonapat
3.	183	5.11.2020	120-B, 272, 328, 420, 467, 468 and 471 IPC and Sections 3 & 61 of the	Mohana, District Sonapat

			Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020).	
4.	745	4.11.2020	61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and later on added Sections 328, 227, 420, 467, 468, 471 IPC & Sections 4-20, 72a and Section 61/1/4 of the Excise Act, 1914.	Sonepat City, District Sonepat
5.	746	4.11.2020	328, 227, 420 IPC and Sections 72F, 72-A, 4B of the Excise Act, 2020	City Sonepat, District Sonepat
6.	517	5.11.2020	272, 328, 420 IPC and Sections 61(3), 4/2020, 72-A of the Haryana Amendment of Excise Act, 2020	Sadar , Sonepat, District Sonepat
7.	747	5.11.2020	328, 272, 420, 467, 468, 471 IPC and Sections 72A, 61(3), 4-20 of the Excise Act, 2020	City Sonepat, District Sonepat
8.	748	6.11.2020	120-B, 269, 273, 420, 467, 468, 471 IPC and 61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020).	Sonepat City, District Sonepat
9.	749	6.11.2020	304-A, 420 IPC and Section 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and later on added Sections 272, 328, 467, 468, 471 IPC and Sections 2-20 of the Excise Act.	City Sonepat, District Sonepat
10.	752	6.11.2020	272, 328, 420 IPC and Sections 72-A-4 of Excise Act, 2020	City Sonepat, District Sonepat
11.	760	11.11.2020	304, 328, 272, 420 IPC and Section 72A of the Excise Act, 2020	City Sonepat, District Sonepat
12.	763	12.11.2020	272, 304-A, 328, 420 IPC and Section 72 of the Excise Act, 2020	City Sonepat, District Sonepat

3. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. Ld. counsel appearing for the State has opposed the bail on the ground that the petitioner is a habitual offender.

REASONING:

5. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed:-

“While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the

puddles.”

6. The State has opposed the bail through the status report filed by Additional Deputy Superintendent of Police, Sonapat, wherein it has been alleged that on 07.11.2020, based on a secret information, the police recovered illicit liquor from Saurab. After that, the police arrested him and on interrogation, the police found the involvement of Dharamjit who was also arrested. The recovered liquor was sent for testing and as per the FSL report dated 24.12.2020, methyl alcohol was detected in the liquor recovered. Subsequently, the investigation revealed that the holograms fixed on the bottles were fake and the concerned company stated that it never manufactured the same. The investigation further revealed that said liquor was being made at an illegal factory and petitioner Anil used to supply the same from his shop.

7. The FSL detected methyl alcohol, which is a poisonous substance and the evidence against the petitioner is not only the disclosure statement of the co-accused but also his mobile connectivity. As such, the petitioner appears to be one of the main culprits. Further, the allegations against the petitioner are not confined to this case alone. As per the contents of paragraph 7 of the petition, the petitioner himself stated that around 12 cases of similar offences are pending against him. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

8. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence of a prima facie case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application. The courts can release on bail, provided the circumstances then prevailing requires, and a change in the fact situation. In State of Rajasthan v Balchand, AIR 1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh when considering the question of jail. So also, the

heinousness of the crime. In GudikantiNarasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC 280, Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations. In Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

9. In the light of ratio of the judicial precedents mentioned above, the petitioner's case does not fall in the category of cases where bail ought to be granted.

10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

11. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All interim orders granting bail to the petitioner stand vacated. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

February 17, 2022
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Whether speaking/reasoned :	Yes
Whether reportable :	No