

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25194-2021
Reserved on: 29.07.2022
Pronounced on: 08.09.2022

Satbir Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
169	26.06.2021	Parao, Ambala Cantt., District Ambala	420, 467, 468, 471, 120-B IPC and 61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 Cr.P.C. seeking anticipatory bail.
2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
- 3.(a) Based on a secret information received on 25.06.2021 CIA of Ambala registered FIR against petitioner Satbir Singh, co-accused, namely, Parth Sharma and Chandan Bharti driver of the tanker truck, on the allegations that they manufacture illicit liquor and are carrying Extra Neutral Alcohol (for short ENA) in the said tanker. The informant further told the police that in case the tanker truck No. PB02-DU-3362 is checked then the police can recover ENA from it. Based on this information, the police laid down a naka and ported the said tanker truck. On enquiry, the driver revealed his name as Chandan Bharti. On further enquiry at the spot revealed that the presence of ENA in the tanker truck. On this, the police officials asked the driver to show the documents for ENA and he produced Tax Invoice No. OE/007/20-21 dated 19.06.2021 and one E-way bill and copy of Form 25 of M/s Vinayak Distilleries Private Limited, Industrial Area, Phase-1, Chandigarh.

(b) After that the truck was taken into CIA premises and verification was done. The contents of the truck were to be ENA and it was found to be illegally brought/purchased. Then investigation further revealed that it was supposed to be supplied at the premises of the accused/petitioner Satbir Singh at Mohri, District Ambala. The further investigation revealed that the accused had prepared forged bills of Sanitizer whereas ENA was transported in the tanker truck which is used for preparing illicit liquor.

(c) The Investigating officer got the electronic footprints of GPRS installed in the aforesaid tanker which showed that on 04.06.2021 the tanker had started from Gwalior Distillery/Bhind (Madhya Pradesh) and the said ENA was unloaded at Mohri Filing Station, Mohri (KKR) on 06.06.2021 which is owned by accused/petitioner Satbir Singh. In the further investigation revealed that the total ENA which the truck was carrying 25 thousand liters. The investigation further revealed that call detail records of the driver of the tanker also matched with GPRS data. Thus, at the time of detection the driver produced the bills of Sanitizer whereas the tanker truck was found loaded with ENA. The investigation further revealed that the tax invoice of sanitizer, E-ways bill, Form 25 and built were in the name of Baba Deep Singh Cargo, Amritsar.

4. 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.

5. Ld. counsel representing the State opposes bail.

REASONING:

6. The investigation revealed the connection of the present petitioner and it would be relevant to extract paragraph 4 of the status report dated 27.07.2021, which reads as follows:

That it is relevant to submit here that on examination of CDR of the accused-petitioner, it has been revealed that the accused-petitioner was in conversation with co-accused Parth Sharma vide his mobile No. 63902-48510, 98962-29922, co-accused Raj Kishore Dubey vide his mobile No. 86383-56193 and co-accused Sunil Yadav mobile No. 98267-41115 (owner of Gwalior Distillery Bhind). It is relevant to submit here that as per CDR, on 25.05.2021 at 18:21 and 18:32 hours, the accused petitioner received incoming calls from the mobile phone of co-accused Parth Sharma on his mobile No. 94163 04675 and the accused-petitioner also received incoming call on 05.05.2021 at 13:53 hours and on 04.06.2021 at 22:56 hours from the mobile No. 98962-29922 of co accused Parth Sharma. From the perusal of CDR of accused-petitioner, it has also been revealed that on

11.05.2021, at 13:14 hours the accused-petitioner received incoming call from the mobile number 86383 56193 of co-accused Raj Kishore Dubey. It has also transpired from the data of CDR that on 25.01.2021 at 16:22 hours, the accused-petitioner also received incoming call from the mobile number 98267-41115 of co-accused Sunil Yadav, owner of Gwalior Distilleries Bhind and on 11.04.2021 at 10:56 and 10:57 hours, the accused-petitioner made out going call to mobile of co accused Sunil Yadav, owner of Gwalior Distilleries Bhind. Hence, in these circumstances, the custodial interrogation of accused-petitioner is required in this case to unearth the conspiracy over the gang involved in preparation and supply of illicit liquor. The copies of relevant pages of CDR (six pages) are annexed as Annexure R-11.

7. The investigation further revealed that the involvement of owners and officers of Gwalior Distillery Bhind (MP) as well as M/s Vinayak Distilleries Private Limited, in preparation of illicit liquor with ENA.

8. In the bail petition, the petitioner has nowhere explained the call details between him and co-accused Parth Sharma and Sunil Yadav. The stand of the petitioner is that Chandan Bharti is not the driver of the petitioner and he is not known to driver of the tanker-truck bearing Registration No. PB-02-BU-3362. On the other hand, the investigation points out towards the petitioner's connection with the ENA and further investigation points out that the reason for its transportation is to make illicit liquor.

9. The history has reminded us again and again that because of this hooch prepared illegally with inferior quality products has led to loss of a large number of lives. Thus no leniency can be given. Consequently, to know the involvement of further people and how the illicit liquor is being sold to its suppliers, custodial investigation is required.

10. Given the nature of allegations, custodial interrogation is required. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

11. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T.

Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. PadamNarain Aggarwal (2008) 13 SCC 305].

12. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informationsand also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

13. 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.

14. 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. Interim protection orders stand vacated with immediate effect. All pending applications, if any, stand disposed.

**(ANOOP CHITKARA)
JUDGE**

08.09.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No