

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28404-2021

Date of Decision: 07.01.2022

Loven Sharma @ Laven Sharma

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Anureet S. Sidhu, Advocate, for the petitioner.

Mr. M.S. Nagra, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'pre-arrest bail' upon FIR No. 50 having been registered at Police Station Sadar, Police District Khanna, on 22.04.2020, alleging therein the commission of offences punishable under the provisions of Sections 420/465/468/471/269 of the IPC and Section 51 of the Disaster Management Act, 2005.

On 15.09.2021, the following order had been passed by this court in the context of the present petition:-

“Pursuant to the last order passed, the Registry of this court has put up the list of petitions arising out of the FIR in question (FIR no.50, dated 22.04.2020), registered at Police Station Sadar Khanna, District Ludhiana, alleging therein the commission of offences punishable under Sections 420, 465, 468, 471 and 269 of the IPC, as also under the provisions of Section 61 of the Punjab Excise Act,

1914).

It is seen that out of 31 such petitions 27 have been disposed of, with 4 still pending adjudication.

A reply to CRM-23602 of 2021 and CRM-23603 of 2021 in CRM-M- 28404 of 2021 has also been filed on behalf of the respondent State, by way of an affidavit of the Superintendent of Police, Khanna, dated 26.08.2021.

The said reply is ordered to be taken on record.

After giving the background of the entire matter, it is stated by the SP that the name of the petitioner (Loven Sharma @ Laven Sharma) was disclosed by four of his co-accused who also named various other persons who were all thereafter nominated as accused in the FIR.

Paragraph 8 of the affidavit also states that the accused were all found to be in telephonic conversation with each other and the ownership of the factory from which a large quantity of liquor is stated to have been recovered, was also verified from the revenue authorities as well as the electricity department (with it not specifically stated as to who owns the said factory).

Learned State counsel submits that the factory premises actually belongs to one Rajiv Gupta who had leased/rented it out to the petitioner in the accompanying petition, i.e. Ravinder Singh @ Bitta.

Next, it has been stated by the SP that upon completion of the investigation, even a supplementary final report under Section 173(8) of the Cr.P.C. was prepared and presented to the court of competent

jurisdiction.

The role of the petitioner was found to the effect that he had a 5% share in the illicit liquor manufacturing unit in question, and he is a huge supplier of the liquor (as per the case of the investigating agency).

It is also stated that he exchanged 278 calls with other co-accused whose names have been given in paragraph 11 of the petition.

It has next been stated that the petitioner had tested positive with the Covid-19 virus on 29.07.2021 with thereafter a “negative” result having been given on 18.08.2021.

Last, it has been stated that the matter relates to a huge recovery of illicit liquor opined to be unfit for human consumption and that previously in the States of Punjab and Haryana many persons having died on account of the consuming spurious liquor, the petitioner who is a member of a well organized gang running the business of spurious liquor, he deserves no leniency and consequently his petition needs to be dismissed.

Learned State counsel however, on instructions from ASI Parmod Kumar, submits that the petitioners' custodial interrogation is not required.

The SSP, Khanna, is directed to file an affidavit in the aforesaid circumstances, as to whether the petitioners' custodial interrogation is actually required and if so for what purpose, with the challan having been submitted to court.

Of course, it is to be observed by this court that the gravity of an offence would be naturally a matter of due consideration of this court before

admitting a person to bail (under the provisions of Section 438 or 439 of the Cr.P.C., especially under Section 438), but with a large number of other coaccused already having been admitted to bail (under the provisions of Section 439 of the Cr.P.C.), and the petitions filed by the others under the provisions of Section 438 of the Cr.P.C. having been held to be rendered infructuous in view of the fact that statements had been made by the police officials concerned as regards their custodial interrogation not being required, the aforesaid reason needs to be given by the SSP, Khanna.

Adjourned to 07.10.2021.

Interim order to continue till that date only and specifically.”

Thereafter, a reply had been filed by the SSP, Khanna, dated 06.10.2021, but with counsel for the petitioner not having been present on the next date of hearing, hearing in the matter had been adjourned till today.

A perusal of the said affidavit filed, shows that it is stated in paragraphs 5 and 6 thereof as follows:-

*“5. That it is respectfully submitted that the above stated accused persons were arrested and produced before the learned court of Illaqa Magistrate on 23.04.2020 and their two days remand was obtained. During investigation, pursuant to disclosure statement of accused persons Harvinder Singh alias Manga Chadha, Chander Parkash alias Vicky Midha, Maninder Singh alias Mani and Jatinder Pal Singh alias Gaini, **the name of Lavan Sharma (present petitioner)**, Bhupinder Singh alias Bhinda, Chirag Kalra, Sumeet Kumar, Aditya Tyagi alias Ankit Tyagi,*

Manoj Kumar, Ashish Kumar alias Kaku, Vikas Sharma, Kulwinder Singh and Kala Kaddon, Jasbir Singh alias Jassi Sarpanch, Amrit Pal Singh alias Rajat, Mukesh Kumar alias Gogi Pandit, Vivek Goyal, Ravi Kumar, Jaskaran Singh and Jasdeep Singh alias Raman, were nominated as accused persons in the present matter.

6. That it is respectfully submitted that on 28.04.2020 the Senior Superintendent of Police, Khanna has constituted Special Investigation Team comprising of Superintendent of Police (Investigation), Khanna, Deputy Superintendent of Police (Investigation) Khanna and Incharge CIA Khanna for conducting further investigation into the matter. On 29.04.2020, the accused persons, Ravi Kumar and Jaskaran Singh were produced before the learned court of Illaqa Magistrate and their one-day police remand was obtained and on 30.04.2020 they were sent to judicial custody at Central Jail, Ludhiana.”

Thus, in paragraph 5 it is stated that the petitioner having joined investigation no further recovery is to be effected from him.

It has also been stated that no complaint has been received as regards any injurious effect of the consumption of any liquor as is stated to have been recovered in the present case.

However, in paragraph 6 it is thereafter stated that he has not disclosed about the benefits gained from the partnership of the illicit business and has also not disclosed whether he is involved in any other such type of business or not. Though learned counsel for the State submits that the petitioner has been arraigned as an accused in another FIR registered, of the same nature, learned counsel for the petitioner submits that other co-accused

of the petitioner in the context of the present case, have already been admitted to bail, (as noticed by this court in previous orders).

In view of the above and the fact that otherwise no recovery is to be effected from the petitioner even as per the affidavit of the SSP, without making any comment on the actual merits of the case, which would naturally proceed as per the evidence led before the trial court, the petition is allowed with the interim order passed on 26.07.2021 made absolute, on the same terms and conditions.

Naturally, this order would have no effect on the merits of any other FIR registered arraigning the petitioner therein as an accused; and any such other case would obviously proceed on its own merits.

January 07, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.