

216

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-31073-2022

Date of Decision: 02.08.2022

Jaswinder Singh @ Bhola

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Harjinder Singh, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case bearing FIR No.47 dated 29.05.2022, under Section 61 of the Punjab Excise Act, 1914, registered at Police Station Fattu Dyinga, District Kapurthala.

When the matter earlier came up before this Court on 20.07.2022, this Court issued notice of motion and arguments were also addressed by learned counsel for the petitioner wherein it was stated that the petitioner has been falsely implicated and earlier also in two more cases, he has been acquitted and reference was also made to Para No.11 of the petition which was supported by the affidavit filed by the petitioner.

The learned State counsel on that date had stated that rather the petitioner was involved in three more cases out of which in one case he has

been convicted under the NDPS Act and remaining two cases are pending. This Court had directed the State to file an affidavit with regard to the role of the petitioner in the present case and especially the details of the cases pending against the petitioner.

Today, short reply by way of an affidavit of Deputy Superintendent of Police, Sub-Division Sultanpur Lodhi, District Kapurthala has been filed by the learned State counsel and the copy of the same has been supplied to the learned counsel for the petitioner.

As per the affidavit, the house of the petitioner was raided on the basis of information, from where, there was recovery of 70 liters of Lahan and 14 bottles of liquor of 750 ml. each which were taken into the police custody and the petitioner after seeing the police party ran away from the spot by climbing stairs of the house. The past antecedents of the petitioner have also been stated in detail in Para 4 of the affidavit which shows that the petitioner has been convicted in two more cases under the NDPS Act and in one case under the Excise Act, he has been acquitted.

Learned counsel for the petitioner has submitted that it was only an inadvertent mistake that the earlier convictions of the petitioner in two other cases could not be mentioned in the petition. Para 11 of the petition is reproduced as under:-

“11. That the petitioner was involved in two other cases, he has already been acquitted in these two cases. The petitioner has not been declared proclaimed offender in any other case.”

The present petition is supported by an affidavit of the petitioner which is at Page Nos.7 & 8 of the Paper-book. The affidavit is also notarized.

The submission made by learned counsel for the petitioner that it was an inadvertent mistake that the earlier conviction of the petitioner could not be stated in the petition is not acceptable. The averment made in Para 11 of the petition is very categorical that he was involved in two other cases, in which he has already been acquitted and the petition is itself supported by an affidavit duly sworn by the petitioner.

This Court is of the view that the petitioner has deliberately misled the Court and also has suppressed material facts from the Court. Ordinarily, this Court ought to have initiated prosecution against the petitioner for perjury but taking a lenient view, this Court deems it fit and proper to impose costs upon the petitioner for misleading and suppressing the material facts from this Court.

Consequently, the present petition is dismissed with Rs.25,000/- as a costs. The petitioner is directed to deposit the costs before the learned Chief Judicial Magistrate, Kapurthala within a period of two months from today and on deposit of the same, the CJM, Kapurthala shall transfer the same to the Punjab Legal Services Authority.

Post this case on 11.10.2022, for compliance purposes.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

02.08.2022

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |