

CRM-M-52746 of 2022 (O&M)

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

CRM-M-52746 of 2022 (O&M)

Date of decision: 01.12.2022

Pardeep Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Naveen Batra, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-45087 of 2022

This application has been filed by the applicant-petitioner under Section 482 Cr.P.C. for placing on record order dated 20.07.2022 and remand paper dated 30.10.2022 as Annexures P-3 and P-4 and for exemption from filing the certified copies of the same.

Allowed as prayed for.

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This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0134 dated 29.10.2022 under Section 61 of the Punjab Excise Act, 1914, registered at Police Station Anandpur Sahib, District Rupnagar.

The case of the prosecution is that Hanish Seyal and Arun Kumar were apprehended on 29.10.2022 as they were carrying four boxes of Nips containing liquor make 999 on their Aactiva for sale in Chandigarh

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only. During interrogation, they disclosed the name of present petitioner-Pardeep Kumar and Ravi. Later on house of the petitioner was raided where seven boxes of liquor each containing 12 bottles make 999 were recovered. Four boxes of liquor each containing 12 bottles make 111 were also recovered.

On issuance of notice of motion, status report dated 01.12.2022 by way of affidavit of Ajay Singh, Deputy Superintendent of Police, Sri Anandpur Sahib, District Rupnagar, has been filed on behalf of the respondent-State, wherein in paras 4 to 6 it has been stated as under: -

“4. That it is further submitted that thorough investigation of the case is carried out and during investigation, the investigating officer-ASI Jog Nath inspected the spot and prepared site plan of the place of recovery and accused Arun Kumar and Hanish Sayal were arrested at the spot. It is further submitted that during interrogation of the accused Hanish Sayal, he got recorded his disclosure statement under Section 27 Indian Evidence Act, 1872, which is being reproduced as under: -

“I am a graduate and nowadays I am idle. I am not doing any work and due to this reason I was induced to indulge in the illegal sale of liquor by Pardeep Kumar @ Deepi, resident of near Sodhian di Haweli, Choi Bajar, Sri Anandpur Sahib and Ravi Kumar resident of near Sodhian di Haweli, Choi Bajar, Sri Anandpur Sahib. Pardeep Kumar @ Deepi has Mobile No.83604-62425, and Ravi Kumar has Mobile No.88476-77463, who are residing near Sodhian di Haweli, Choi Bajar, Sri Anandpur Sahib, and we sell their liquor. The liquor you have recovered from us today was also given by them in order to sell the same

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further. We are working as daily wagers with them. These persons have a Verna Car bearing No.PB-16-E-2221, however, the registration numbers of Innova of silver colour, Pajero of gray and white colour are not in my mind. These persons smuggled liquor from Chandigarh in these vehicles. The liquor of the aforementioned persons, we were selling today, was out of the liquor haul stored in an abandoned house crossing uphill ahead of the house of Ravi and Deepi near Sodhian di Haweli. I know about the said liquor and can get the same recovered.”

It is further submitted that on the basis of aforementioned disclosure statement, accused Hanish Sayal got recovered 04 boxes of liquor bottles, each containing 12 bottles, each bottle containing 750 ML liquor make 111 ACE Whiskey, manufactured in Chandigarh, 07 boxes of liquor bottles, each containing 12 bottles, each bottle containing 750 ML liquor make 999 Power Star Fine Whiskey, manufactured in Chandigarh and 03 boxes of liquor each containing 48 quarters, each quarter containing 180 ML liquor make 999 Power Star Fine Whiskey manufactured in Chandigarh. In this way the accused Arun Kumar and Hanish Sayal were found in possession of 15 boxes of liquor without any permit or licence and as per accused Hanish Sayal, the liquor recovered was of petitioner-Pardeep Kumar @ Deepi and his brother Tejinder Kumar @ Ravi.

5. That it is further respectfully submitted that thorough investigation of the case was carried out and the claim of the accused Hanish Sayal as claimed by him in his statement under Section 27 of Indian Evidence Act, 1872, was got verified from whatsapp chat between Hanish Sayal and petitioner-Pardeep Kumar @ Deepi on his whatsapp number 94642-87990 and call detail record (CDR) of mobile number 7011092543 belongs to

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Hanish Sayal and mobile number 8360462425 belongs to petitioner-Pardeep Kumar @ Deepi. It is further submitted that from the verification of CDR between 01.04.2022 to 30.10.2022 and whatsapp chat between the petitioner-Pardeep Kumar @ Deepi and Hanish Sayal, it has been found that they frequently talked to each other and they have more than 20 calls each day. It is further submitted that Hanish Sayal used to send sale of liquor time to time to petitioner-Pardeep Kumar @ Deep on whatsapp. The answering respondent undertakes to produce the CDR before this Hon'ble Court, if it is directed by this Hon'ble Court. It is further submitted that during further investigation of the case, it was revealed that Honda Activa Scooter bearing No.PB-16-E-9653 was registered in the name of Harpreet Singh son of late Amarjit Singh, resident of village Bani, police station Sri Anandpur Sahib, and he was examined by the investigating officer, who got recorded his statement that he had sold the said Honda Activa Scooter bearing No.PB-16-E-9653 to petitioner-Pardeep Kumar @ Deepi on 03.12.2019 and he also produced an affidavit regarding purchase of said Honda Activa Scooter by petitioner-Pardeep Kumar @ Deepi and that was being used by petitioner-Pardeep Kumar @ Deepi, however, the registration of the same has not been got transferred by petitioner-Pardeep Kumar @ Deepi in his name. It is further submitted that during interrogation of accused Arun Kumar and Hanish Sayal it was disclosed by them that the Honda Activa Scooter bearing No.PB-16-E-9653 was provided to them by petitioner-Pardeep Kumar @ Deepi for supply of liquor in different area of the Sri Anandpur Sahib. It is further submitted that it has been established that the petitioner-Pardeep Kumar @ Deepi and Tejinder Kumar @ Ravi were the actual owner of the recovered liquor and accused Arun Kumar and Hanish Sayal were selling the said liquor illegally at the instance of petitioner-Pardeep Kumar @ Deepi and Tejinder

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Kumar @ Ravi, accordingly they both were nominated in the present case and Section 67 of the Punjab Excise Act, 1914 was added in the present case, against the petitioner and his co-accused Tejinder Kumar @ Ravi.

6. That it is respectfully submitted that from the investigation carried out so far it has been established that the petitioner-Pardeep Kumar @ Deepi and Tejinder Kumar @ Ravi are indulged in illegal sale of liquor and they smuggled the same from Chandigarh and sell the same through Arun Kumar and Hanish Sayal in the area of Sri Anandpur Sahib. It is further submitted that custodial interrogation of the petitioner-Pardeep Kumar @ Deepi is required in the present case for recovery of vehicle being used by them to smuggle the liquor from Chandigarh and also to find out as to from where they purchase these liquor.”

Learned counsel for the petitioner contends that the petitioner has been nominated in the abovesaid case on the basis of disclosure statement of the co-accused, which has no evidentiary value and, therefore, the petitioner may be granted the concession of anticipatory bail.

Per contra, learned State counsel submits that it is not only the disclosure statement of co-accused Hanish Seyal on the basis of which the petitioner has been nominated rather after the disclosure statement of Hanish Seyal, further investigation was carried out and huge recovery of liquor has been made and the statement of co-accused Hanish Seyal was got verified by the Whatsapp chat between Hanish Seyal and the present petitioner, the details of which have been given in the status report. He further submits that apart from the present case, petitioner is involved in

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two more FIRs, the details of which is as under: -

Sr. No.	Registered FIR/case	Present status of the FIR/case
1.	FIR No.149 dated 18.09.2020 under Section 61(1) of the Punjab Excise Act, 1914, registered at Police Station Sri Anandpur Sahib, District Rupnagar (Recovery of 24 boxes of liquor)	The case is under trial
2.	FIR No.128 dated 09.10.2013 under Sections 447, 323, 506, 148, 149 IPC, registered at Police Station Sri Anandpur Sahib, District Rupnagar	Quashed on the basis of compromise on 20.07.2022

I have heard learned counsel for the parties and perused the record.

Although FIR No.128 dated 09.10.2013 has been quashed on the basis of compromise, however, FIR No.149 dated 18.09.2020 is under the Punjab Excise Act where recovery of 24 boxes of liquor was made from the petitioner and his brother, meaning thereby petitioner is a habitual offender. In these circumstances, custodial interrogation of the petitioner would be necessary for proper investigation, recovery and to know the source of procurement and sale of liquor.

In view of the above, present petition is dismissed.

01.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No