

HARPREET SINGH @ BUGGI

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Ms. Gurvir Kaur Gill, Advocate
for the petitioner.

HARSH BUNGER, J.

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.153 dated 09.07.2022, registered under Section 61 (Act No.1) of Punjab Excise Act, 1914, at Police Station Dharamkot, District Moga.

Brief facts of the case are that on 09.07.2022, ASI Davinderjeet Singh along with other police officials was going towards Village Maujgarh, SherpurTaiba, Rerwa, Kaila etc., in connection with patrolling duty. When the police party reached at Bus Stand Village SherpurTaiba, they received a secret information that Charanjeet Singh alias Chanu son of Balwant Singh resident of Sherpur Taiba and Harpreet Singh alias Buggi (present petitioner) resident of Gatti Jattan, are selling illicit liquor at the bridge of river towards the area of Village Sherpur Taiba side and if a raid is conducted, they can be apprehended. Accordingly, the FIR was registered and the raid was conducted at the disclosed place. On seeing the police party and taking the advantage of darkness, both Charanjit Singh and Harpreet Singh @ Buggi ran away from the spot. On search, one rubber tube containing 105 bottles of illicit liquor was recovered.

Apprehending arrest in this case, the present petitioner approached the Court of Additional Sessions Judge, Moga, seeking anticipatory bail; however, the same was rejected vide order dated 13.12.2022 (Annexure P-1). Accordingly, the petitioner has filed the instant petition before this Court seeking anticipatory bail.

Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case only on the basis of secret information, whereas, he was not apprehended on the spot. He further submitted that the petitioner has been made a scapegoat by the police officials as they were adamant to implicate him in some false case. It is further submitted that the recovery in the present case was effected from an open space having access from all the sides. The petitioner has nothing to do with the alleged recovery. No independent witness was joined by the police at the time of alleged recovery. Nothing has to be recovered from the petitioner and hence, his custodial interrogation is not required in the case. Learned counsel further submits that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency.

Pursuant to the advance copy of petition having been sent, Mr. Vinay Kumar Gupta, Assistant Advocate General, Punjab, has appeared on behalf of respondent-State of Punjab in this case and opposed the present petition on the ground of seriousness of offence. He also submitted that the petitioner has no clear antecedents as he is also involved in two more cases i.e. FIR No.34 dated 08.02.2022, registered under Section 61 of the Punjab Excise Act, 1914 and FIR No.141 dated 21.06.2022 at Police Station Dharamkot, District Moga inasmuch as, his anticipatory bail application has been rejected by Co-ordinate Bench of this Court vide order dated 04.01.2023 passed in **CRM-M-47031-2022**; copy of which is handed over

in Court today and the same is taken on record subject to all just exceptions. Learned State counsel also submitted that the petitioner is required for thorough investigation of the case, hence, he does not deserve the concession of anticipatory bail.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

After considering the submissions of learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. A huge quantity of 105 bottles of illicit liquor was recovered from the disclosed place. It is a known fact that the menace of illicit liquor is a serious problem in State of Punjab, especially in view of the deaths due to its consumption in the past. The mere fact that the petitioner was not apprehended at the spot, would not vest a right in him for the grant of anticipatory bail. Confiscation of 105 bottles of illicit liquor is certainly a relevant factor for consideration of anticipatory bail to an accused.

Moreover, the petitioner does not have clear antecedents inasmuch as that he is already involved in two other cases. It has been observed by Hon'ble the Apex Court in ***Gudikanti Narasimhulu vs Public Prosecutor, High Court of A.P. 1978(1) SCC 240*** that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

In *State represented by the C.B.I. versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful information.

In *Jai Prakash Singh Versus State of Bihar and another etc., 2012(2) RCR (Criminal) 251*, Hon'ble the Apex Court observed that neither anticipatory bail nor regular bail can be granted as a matter of rule and the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases.

Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard. Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.153 dated 09.07.2022, registered under Section 61 (Act No.1) of Punjab Excise Act, 1914, at Police Station Dharamkot, District Moga; is dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

February 13, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No