

**205 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-29968-2023 (O&M)
Date of Decision: 18.09.2023**

Binder Singh @ Bhupinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: None for the petitioner.

ASI Bhola Singh for respondent-State.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioner in FIR No. 77 dated 15.05.2023, under Section 61 of Punjab Excise Act, 1914 registered at Police Station Bhikhi, District Mansa.

2. As per case of the prosecution, 40 litres of Lahan was recovered from the possession of petitioner.

3. The Coordinate Bench vide order dated 07.06.2023, granted interim bail to petitioner and the same reads as under:-

“The present petition has been preferred seeking grant of anticipatory bail in case FIR No.77 dated 15.05.2023, under Sections 61 Punjab Excise Act, 1914, at Police Station Bhikhi, District Mansa.

The allegations in the FIR are that the four police officials raided a motor room, which was constructed in the fields, where they recovered 40 litre Lahan and interestingly despite four police officials with weapons being present on the alleged spot, the petitioner apparently escaped from there. Interestingly this FIR does not record the time of incident at what time did the police party received the information and what time the raid was conducted, however, later on it is stated that Head Constable Lakhwinder Singh came to police station at 9:05 P.M.

It is a strange case that four police officials could not apprehend the accused who is 53 years old man, therefore, it is necessary that the State counsel files a specific affidavit of the

SSP, Mansa, who will verify the physical fitness of these concerned four police officials along with the details of their age, physical appearance and the weapons allocated to them.

Learned counsel for the petitioner submits that, in fact this very police station recorded identical FIR and identically 40 litre Lahan was recovered in the same but the accused- Avtar Singh has also been granted the concession of bail in CRM-M-27992-2023 and in that FIR also, identical version of the accused having escaped from the presence of the police officials was narrated.

Notice of motion.

Mr. Siddharth Attri, AAG, Punjab, accepts notice on behalf of the respondent-State.

Learned SSP, Mansa is directed to look into the matter seriously and proceed in accordance with law.

*In the meanwhile, the petitioner is directed to join investigation on 11.06.2023 at **10:00 A.M.** before the Investigating Officer and cooperate with the Investigating Agency even thereafter.*

In the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to be satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

4. ASI Bhola Singh for the State of Punjab apprised the Court that in pursuance of the aforesaid order, petitioner has joined investigation and his custodial interrogation is not required, at this stage.
5. In view of the above, order dated 07.06.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
6. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
7. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
8. Disposed off accordingly.

9. Pending criminal misc. application(s), if any, shall also stand disposed off.

18.09.2023

Rajeev(rvs)

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable: No