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

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CRM-M-33144-2023

Date of decision : 26.07.2023

Verma @ Om Singh and another**..... Petitioners****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Kamal Narula, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

Prayer is for grant of pre-arrest bail to the petitioners in FIR No.21 dated 28.01.2002, registered for the offence punishable under Sections 61/1/14 of Punjab Excise Act, 1914 at Police Station Sadar Ferozepur, District Ferozepur.

2. Reply has been filed, wherein the prosecution explaining the incident stated as under:-

“xx xx xx

2. That it is most respectfully submitted that a case FIR No.21 dated 28.01.2022, registered for the offences punishable under Sections 61/1/14 Excise Act, Police Station, Sadar, District Ferozepur has been registered against three accused persons namely Verma (petitioner No.1), Major and Mintu (petitioner No.2) on the statement of a secrete informer. On 28.01.2002, HC Amandeep Singh, C.I.A. Staff, Ferozepur alongwith HC Balwinder

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Singh, Senior Constable Inderjit Singh, PHG Gurnam Singh on Government vehicle make Bolero bearing No.PB05-L-5654 which was being driven by Constable Bhupinder Singh moved to the areas of Police Station City Ferozepur and Police Station Sadar Ferozepur in connection with patrolling and checking of suspected persons. While doing patrolling, when the police party reached at Village Ali Ke, then a secret informer gave information that Verma (petitioner Na.1). Major and Mintu (petitioner No.2) in connivance with each other are in habit of distilling and selling illicit liquor on the edge of river, Near Ali Ke Pattan Dargaha and at present, all of them in connivance with each other have kept placed Lahan (i.e. mixture of water, jiggery, kicker wood) for distilling heavy quantity of illicit liquor on the edge of Sutlej river in the area of village Ali Ke in the Drums, Containers (Patila), Tarpaulins and today they are preparing for distilling illicit liquor in heavy quantity from the Lahan and if raid is conducted on them, they can be apprehended red handed with heavy quantity of Lahan. The information was reliable. From the secret information, prima facie case under Section 61/1/14 made out, which resulted into registration of FIR against the above named persons including present petitioners.

3. That accordingly, HC Amandeep Singh, CIA Staff, Ferozepur made contact with Inderpal Singh, Excise Inspector and after sometime, Inderpal Singh, Excise Inspector alongwith Rajnish Kumar, E.T.O. and ASI Balvir Singh, HC Avtar Singh, HC Rajinder Kumar, Constable Nirmal and Constable Gurpreet Singh on Government vehicle No.PB05-T/2667 met him. When both the police parties

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reached on the edge of Sutlej river at Dargah Near Ali Ke Pattan, then two persons were found shaking the Tarpaulin of Lahan near the edge of river under the garb of Sarkanda plants and one person was placing the Drums and Containers (Patiles) in order. On carefully watching them, it was found that the persons who were shaking Tarpaulin were Verma (petitioner No.1) and Major and the third person who was placing the Drums and Containers in order was Mintu (petitioner No.2). Since all the above named persons are residents of village Ali Ke and as such, HC Amandeep Singh, CIA Staff, Ferozepur, his companions and some employees of the Excise department were very well known to them. On seeing the police party, all the above named accused including present petitioners absconded from the spot by taking advantage of Sarkanda plants and water of the river after leaving their Drums, Containers and Tarpaulins at the spot. Best efforts were made to join a private witness, but due to deserted area, no private person met there. On making search by HC Amandeep Singh, CIA Staff, Ferozepur in the presence of Inspector Inderpal Singh of Excise department, 28 Tarpaulins which were put on the pits were recovered. After testing the mixture lying on 28 Tarpaulins by Inspector Inderpal Singh, it was reported as Lahan and the test reports were handed over to HC Amandeep Singh. On weighing the recovered Lahan with the help of 20 Kg. iron bucket, it was found 101200 Liter Laban in all the 28 Tarpaulins. The recovered Lahan was destroyed in the presence of Inspector Inderpal Singh after digging a pit near the river. All the 28 Tarpaulins were given Nos.1 to

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28 respectively and Tarpaulins No.2 to 28 were put in Tarpaulin No.1 and a parcel of the same was prepared at the spot, which was sealed by HC Amandeep Singh with his seal having words “AD”. On counting, 16 Drums and 12 Containers (Patilas) were found at the spot, which were also taken into police custody vide recovery memo.”

3. Keeping in view the fact that the petitioner was identified by the raiding party and the extent of quantity recovered, this Court finds that it is not a case for pre-arrest bail.

4. Reliance is being placed upon **Gurbaksh Singh Sibbia vs. State of Punjab, 1980(2) SCC 565**, wherein Apex Court has held that :-

“..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail....”

6 Likewise while reiterating the law laid down in **Gurbaksh Singh Sibbia's case (supra)** Apex Court in **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1** held that :-

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“(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.”

9. In view of above, present petition is dismissed.
10. Needless to say nothing recorded hereinabove should be construed as expression on merits of the case.

(PANKAJ JAIN)
JUDGE

26.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No