

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

CRM-M-39760-2023

Date of Decision:-12.10.2023

Kuldeep Singh @ Abbu.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Abhimanyu Singh, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.180 dated 03.08.2023 under Sections 61(1)(a) of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and Section 120-B IPC registered at Police Station Radaur, District Yamuna Nagar.

2. The present FIR came to be registered with the allegations that when the police party was on patrolling duty on receipt of secret information they reached the house of Kuldeep Singh @ Abbu (petitioner) and raided the same. While seeing the police party coming to the spot, Kuldeep Singh @ Abbu fled away and his wife Asha and his mother met the police party and were asked to provide a permit or a pass but could not do so. On the basis of the raid conducted, the recovery of 29 bottles of Sterling B-7, 7 bottles of Chivas Regal, 47 bottles of Royal Challenge, 5 bottles of Johny

Walker Red Label, 35 bottles of Royal Stag Baral, 26 bottles of Royal Stag, 29 bottles of Hundred Piper, 20 bottles of Rock Ford, 21 bottles of Antiquity, 20 bottles of Signature, 38 bottles of Blender Pride, 12 bottles of OC Blue, 27 bottles of Golfer Short, 12 bottles of Royal Grandeur, 8 bottles of Absolute Vodka, 21 bottles of American Pride, 4 bottles of Vat 69, 6 bottles of Black and white, 10 bottles of Smran off, 27 bottles of Magic Moment, 2 bottles of Monky solder, 8 bottles of black dog, 2 bottles of Bicardy Rum, 4 bottles of Bomby Suphire, 10 bottles of All Season, 2 bottles of Old Samgaler, 2 bottles of English wine of Old Monk, 30 can beer of Budweiser, 7 Can Beer of Charles Bhurg, 17 bottles of beer Make Kingfisher, 20 bottles of Budweiser, 5 bottles of Beer Make Barizer and two bottles of country made liquor Make Malta were recovered from a car standing outside the house, bearing registration No.HR05AL-0999 Make Audi, total 88 bottles of country made liquor Make Malta was being recovered and from Car No.HR96A-0069 Make Toyta Gallenza, 3 bottles of American Pride, 5 bottles of Blander Pride, 5 bottles of Golfer Short, 4 bottles of Sterling B-7, 5 bottles of Signature, 2 bottles of Smirran Off, 1 bottle of Vat 69, 2 bottles of Black White, 5 bottles of Magic Moment, 1 bottle of Absolute Vodka, 5 bottles of Hundred Piper, 1 bottle of All Season, 4 bottles of Black Dog, 2 bottles of Antiquity, 3 bottles of Rock Ford, 2 bottles of English Red Label and 5 bottles of country made liquor Make Malta were recovered, from Shop No.38, situated at Anaj Mandi (Grain Market), Radaur, 1 bottle of Red Label, 7 bottles of Hundred Piper, 2 bottles of Rock Ford, 1 bottle of Antiquity, 4 bottles of Blender Pride, 2 bottles of Absolute Vodka, 1 bottle of Vat 69, 1 bottle of Black and White, 1 bottle of Bombay Saphire, 1 big bottle of English liquor namely Chivas Regal and 12 Can Beer of Budweiser, 11 Can Beer of Carls Berg, 5 bottles of Budweiser

came to be recovered. As such 502 bottles of English liquor, 60 Beer Cans, 47 bottles of Beer and 95 bottles of Country made liquor make Malta were recovered.

3. The Counsel for the petitioner contends that the liquor has not been recovered from the conscious possession of the petitioner but from the house, shop and vehicles which were parked outside his house. There was no allegation that the recovered liquor was spurious. In fact the petitioner had been implicated on account of political vendetta. The recovered liquor had been collected for a party of his 03 month old son. As the petitioner was ready and willing to join investigation he was entitled to the concession of anticipatory bail.

4. The Counsel for the State on the other hand has filed a reply by way of affidavit of Mr. Gurmail Singh, DSP, Radaur, Yamuna Nagar in court today. The same is taken on record. While referring to the reply, he contends that from the investigation conducted till date it has been found that the house, shop and car from where the recovery of the liquor had been effected belongs to the petitioner and the petitioner was indulging in the business of sale and purchase in an illegal manner. He was the main accused and mastermind behind the present offence but had managed to escape from the spot. There were two other cases pending against the petitioner bearing FIR No.115 dated 09.05.2022 under Section 201, 506, 34 and 120-B IPC and Section 25 of the Arms Act and FIR No.180 dated 15.10.2020 under Sections 147, 149, 379, 447, 504, 511 IPC and Section of Arms Act both registered at P.S. Radaur, District Yamuna Nagar. As the offence was prima facie established against the petitioner and investigation was to be taken to its logical conclusion the petitioner was not entitled to the concession of anticipatory bail.

5. I have heard learned Counsel for the parties.
6. The Hon'ble Supreme Court in the case of "**Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870**", has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

" It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. **There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be***

looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail”.

7. In the instant case, a bare perusal of the FIR would reveals that the recovery of a huge quantity of liquor had been effected from the house, shop and vehicles belonging to the petitioner. The petitioner has taken contradictory stand. On the one hand he has canvassed that he has been falsely implicated on account of political vendetta, whereas on the other hand it is argued that the liquor was collected for a party that he was to host for his 03 month old son. Be that as it may, the facts prima facie establishes the commission of the offences in question. Further, the investigation has to be taken to its logical conclusion for which the custodial interrogation of the petitioner is required.

8. In view of the above, I find no merit in the present petition and the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this anticipatory bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

October 12, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>