

106

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43181-2023
Date of decision: 31.08.2023

MOHAMMAD SAHID @ MOHD SHAHID

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Khalid, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.321 dated 29.07.2023, under Sections 120-B of the IPC and Section 61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020), registered at Police Station Hathin, District Palwal, Haryana.

2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and there is no recovery effected from the present petitioner and it was on the basis of disclosure statement of the other co-accused that his name has been nominated. He further submitted that the petitioner had got nothing to do with the present offence and he is not involved in any other case and therefore he may be considered for grant of anticipatory bail.

3. On the other hand, Mr. Naveen Kumar Sheoran, DAG, Haryana has submitted that he has received an advance copy of the present petition and he has also sought instructions from the concerned police official. He further submitted that as per the allegations, a secret information was received in the present case that a truck of 12 tyre bearing registration No.RJ 14 GH 9686 was loaded with illicit liquor camouflaged in the bags of wall putty and it would be coming from the side of Manesar on the KMP road and would go towards Agra via KMP road and if nakabandi is set up then the truck driver can be apprehended with illicit liquor. He further submitted that thereafter nakabandi was set up on KMP road leading from Nuh to Mandkola and even the passer-by were also asked to join the police party but they did not join due to their own compulsion. Thereafter, one truck was seen coming from KMP road from the side of Manesar which was signaled to stop on which the driver of the said truck halted the truck about 10-15 meters before the barricading and tried to escape but with the help of other police officials, he was apprehended who revealed his name as Shahrukh son of Nasruddin, resident of village Kotla, Police Station Nuh, District Nuh. Thereafter upon checking of the truck, its number was found to be RJ 14 GH 9686, which was matching with the secret information which was provided to the police earlier and the said truck was covered with a black colour tarpaulin. On getting suspicious, the truck was checked in which white bags of POP were found to be placed in the back and above and when the truck was checked from inside then liquor was found to be loaded in it and the driver was asked to show the documents concerning to liquor as to whether he had any licence or not but was not able to produce any

documents concerning to liquor and on counting it was found that there were 360 boxes of Officer's Choice, 290 boxes of McDowell and 90 boxes of Royal Stag, 60 boxes of quarter of illicit liquor and 200 bags of POP. Thereafter, one full bottle and one bottle of quarter were taken out from the recovered liquor boxes as samples.

4. Learned State counsel further submitted that in total 800 boxes of illicit liquor were recovered regarding which no justification or licence or any other document was shown by the aforesaid driver of the truck and thereafter during the course of investigation, he disclosed that he was taking the aforesaid illicit liquor on the instructions of the present petitioner, namely, Mohammad Sahid @ Mohd. Shahid. He further submitted that there is sufficient material available with the Investigating Agency to connect the present petitioner with the present offence since during the course of investigation, data of the mobile of the aforesaid co-accused, namely, Shahrukh was seen from where it is very clear that he constantly remained in touch with the present petitioner and the aforesaid driver was also taking regular instructions pertaining to the location and also regarding the distance to travel etc. He further submitted that lot of material is available with the Investigating Agency to connect the present petitioner with the present offence and it is a case where there is a huge recovery of 800 boxes of illicit liquor and for the purpose of qualitative investigation and for the purpose of elicitation of truth with regard to the source as to from where the aforesaid illicit liquor was taken has to be ascertained which can be done only by way of custodial interrogation of the present petitioner and therefore he has prayed for dismissal of the present petition.

5. I have heard the learned counsel for the parties.

6. It is a case where although the name of the petitioner was not mentioned in the FIR since the truck was caught on the basis of a secret information and the truck number was also matching. The co-accused, namely, Shahrukh was apprehended being driver of the truck and there was a huge recovery of 800 boxes of illicit liquor of which no document was shown by the driver, who was the co-accused. Allegedly the illicit liquor was hidden beneath the POP bags by creating a camouflage. As per learned State counsel, on instructions, there is sufficient material available with the Investigating Agency for connecting the petitioner with the aforesaid co-accused on the basis of mobile data from where it is clear that the co-accused was in regular touch with the petitioner, who was giving him instructions with regard to location and distance to travel. The aforesaid co-accused had also suffered a disclosure statement that he was taking the aforesaid illicit liquor on the instructions of the present petitioner.

7. This Court is of the view that considering the huge recovery of illicit liquor, it is very essential for the Investigating Agency to know the source from where that illicit liquor has come and therefore the argument which has been raised by learned State counsel that for the purpose of elicitation of truth and for qualitative investigation, the custodial interrogation of the petitioner is required cannot be ignored and carries weight. Therefore considering the gravity and magnitude of the offence involved in the present case, this Court does not deem it fit and proper to grant the concession of anticipatory bail to the present petitioner.

8. Consequently, finding no merit in the instant petition, the same is hereby dismissed.
9. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

31.08.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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