

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

104

CRM-M-47031-2022  
Date of decision : 04.01.2023

Harpreet Singh @ Buggi .... Petitioner

Versus

State of Punjab .... Respondent

**CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

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

Mr. Joginder Pal Ratra, Senior D.A.G., Punjab  
for the respondent-State.

**ASHOK KUMAR VERMA, J. (ORAL)**

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.34 dated 08.02.2022 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Dharamkot, District Moga.

Brief facts of the case are that on 08.02.2022 ASI Sukhwinder Singh along with other police officials were going towards Village Chak Kaniya Kalan for doing patrolling duty. When the police party reached near T-Point Basti Society, they received a secret information that Harpreet Singh @ Buggi (the petitioner), who is habitual of distilling and selling illegal liquor, has distilled the illicit liquor at the bank of river Satluj within the limits of Village Gatti Jattan. If a raid is conducted, he can be apprehended red-handed.

Accordingly, the FIR was registered and raid was conducted at the

disclosed place. On seeing the police party, the petitioner fled from the spot. On search 02 rubber tubes containing 200 bottles of 750 ml. of illicit liquor and 60 tarpaulins of lahan total measuring 24,000 litres were recovered from the spot.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The petitioner was not apprehended on the spot. The FIR was registered on a secret information and the petitioner made a scapegoat by the police officials as they were adamant to implicate him in some false case. The recovery 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 his custodial interrogation is not required in the case. The petitioner is also ready and willing to join investigation. Therefore, the petitioner may be granted anticipatory bail.

Notice of motion.

On the asking of the Court, Mr. Joginder Pal Ratra, Senior D.A.G., Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and opposed the present petition on the ground that when the raid was conducted the petitioner was fled from the spot and a huge quantity of illicit liquor and lahan were recovered from the spot. The petitioner was also involved in 02 other cases i.e. FIR No.153 dated 09.07.2022 and FIR No.141 dated 21.06.2022. The custodial interrogation of the petitioner is required for thorough

investigation of the case. Therefore, the petitioner does not deserve the concession of anticipatory bail.

Having heard learned counsel for the parties, I am of the view that the allegation against the petitioner is serious in nature. A huge quantity of illicit liquor and lahan was recovered from the spot. The menace of distilling of illicit liquor is a serious problem in Punjab, especially in view of the deaths due to its consumption during the past three-four years. The mere fact that the petitioner was not apprehended at the spot, or the land where the activity was allegedly being carried out, did not belong to him would not vest a right in him for the grant of anticipatory bail. Confiscation of a “huge quantity” of lahan, the raw material for distillation of illicit liquor, was certainly a relevant ground for denial of anticipatory bail to an accused.

Moreover, The antecedents of the petitioner are also not good as he is already involved in two other cases. It has been observed by the Hon’ble Supreme Court in case ***Gudikanti Narasimhulu Vs. Public Prosecutor, High Court of A.P. : (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed 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.

Furthermore, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it

is to be exercised in exceptional cases. The Hon'ble Supreme Court in

***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

*“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”*

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

**04.01.2023**

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**(ASHOK KUMAR VERMA)**

**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No