

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.3171 of 2024
Date of decision: 20th January, 2024

Rohit Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mayur Karkra, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 438 Cr.P.C. in case FIR No.124 dated 26.08.2023 under Section 61 of the Punjab Excise Act, 1914 registered at Police Station Division No.4 (Lahori Gate), District Patiala.

2. Learned counsel inter alia contends that the petitioner has been falsely implicated in the case in hand on the basis of an alleged disclosure statement suffered by co-accused Vicky Kumar, from whom recovery of 60 bottles of country-made liquor was effected. He submits that the evidentiary value of the disclosure statement so made by the co-accused is very weak and on this ground alone he deserves to be extended the concession of bail. Learned counsel has relied upon '**Prabhakar Tewari vs. State of U.P. & another**' 2020(1) RCR (Criminal) 831, to urge that the Hon'ble Supreme Court had held that mere pendency of

other criminal cases cannot come in the way of extending the concession of bail to an accused.

3. I have heard learned counsel and perused the relevant material on record as well as the case law, on which a great deal of stress has been laid by the learned counsel appearing on behalf of the petitioner.

4. Firstly, as per the averments made in the petition, the petitioner has claimed that he is involved in only two other criminal cases i.e. FIR No.81 dated 19.09.2023 under Sections 61/1/14, 78(2) of the Punjab Excise Act, 1914 pertaining to Police Station Sanaur Patiala; and FIR No.114 dated 23.08.2020 under Section 61 of the Punjab Excise Act registered at Police Station Lahori Gate, Patiala; besides two more cases, qua which he does not have the relevant details. It has been categorically averred therein that other than these four cases, he is not involved in any other criminal case.

5. The assertion made by the petitioner is factually incorrect, as has been apprised by Mr. Mohit Kapoor, Addl. Advocate General, Punjab appearing on behalf of the respondent/State. Learned State counsel, on instructions, has informed the Court that there has been material concealment and misrepresentation by the petitioner; the petitioner in fact is involved in as many as 11 other criminal cases including a case under the NDPS Act.

6. Hon'ble the Apex Court, has time and again, reiterated that a person who does not approach a Court of law with clean hands, is not

entitled to any relief. In ‘**V. Chandrasekaran & another vs. The Administrative Officer & another**’ 2012(4) RCR (Civil) 588, the Hon'ble Supreme Court has held as under:

“35. The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the court to subvert justice, for the reason that the court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and therefore, they are very often one and the same. A petition or an affidavit containing a misleading and/or an inaccurate statement, only to achieve an ulterior purpose, amounts to an abuse of process of the Court.”

7. Furthermore, the assertion made by the learned counsel appearing on behalf of the petitioner that the pendency of other criminal cases should not come in the way, is also bereft of any merit as he is not seeking the concession of regular bail but the extraordinary concession of anticipatory bail. Reliance by the petitioner on **Prabhakar Tewari’s case (supra)** is misplaced as the observations were made by the Hon'ble Supreme Court while considering a case of regular bail and not anticipatory bail. The petitioner has prima facie misused the concession of bail granted to him in other cases, which stand registered against him.

8. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioner in the instant case.

9. Dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 20, 2024
rps

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