

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(208)

2024:PHHC:050203
CRM-11803-2024
Date of Decision: 15.04.2024

Kulwinder Singh --Petitioner

Versus

State of Haryana --Respondent

CORAM:- HON'BLE MR. JUSTICE GURVINDER SINGH GILL.

Present:- Mr. A.S. Mann, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

FIR No.	Dated	Police Station	Section/s
235	21.05.2019	Sampla, District Rohtak	407, 420 IPC (section 120-B IPC added later on)

GURVINDER SINGH GILL.J (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of anticipatory bail in respect of aforementioned FIR.
2. The allegations in nutshell are that the FIR in question was lodged at the instance of Mahesh Kumar, Manager M/s C J Darcel Ltd., Hasangarh, District Rohtak, wherein it is alleged that he is doing the business of transportation and that his company owns several vehicles and at times also hires vehicles from the market for the purpose of transporting goods. It is alleged that four trucks had been hired by the complainant's company in the month of April, 2017 for the purpose of transporting a consignment of washing powder of Hitkari Gram Udyog. It is alleged that the drivers, while on the way unloaded a part of the consignment of washing powder and loaded liquor bottles. However, the said trucks were caught by the Bihar Police and different FIRs were lodged for contravention of provisions of Excise Act.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case as he is neither owner of any of the trucks in question nor is driver of the trucks nor is employed as cleaner with the trucks and has been named in the FIR on the premises that it was at his instance that liquor bottles were loaded on truck bearing registration no. HR-56A-7698. It is further alleged that the petitioner along with driver had then proceeded to Bihar and that the petitioner was fully aware about the transportation of liquor in the truck. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case and that he had no domain over the truck in question as he is neither owner, nor driver nor cleaner of the said truck and he enjoys a clean record not having been involved in any other case.

4. Opposing the petition, learned State counsel has submitted that since the petitioner has been specifically named in the FIR, his complicity is clearly proved. State counsel has, however, not disputed that petitioner has a clean record and is not involved in any other case.

5. This Court has considered the rival submissions addressed before this Court.

6. Keeping in view the totality of the facts and circumstances of the case, wherein the complicity of the petitioner would be debatable inasmuch as he is neither the owner, nor driver nor a cleaner of the truck in question, the petition merits acceptance and is hereby accepted.

7. The petition, as such, is allowed and the petitioner is ordered to be released on anticipatory bail subject to the condition that he shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.

(GURVINDER SINGH GILL)
JUDGE

15.04.2024

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No