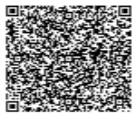


2024:PHHC:070571



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRM-M-19810 of 2024
Date of Decision: 23.04.2024

Kulwant Singh and others Petitioners

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gobind Singh, Advocate
for the petitioners.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.141 dated 03.09.2020 registered under Section 186,353,188,269,270,336 of IPC,1860, under section 3 of Epidemic Diseases Act 1897 and under section 51 of Disaster Management Act, at Police Station Tarsikka, District Amritsar Rural. .
2. Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in the present case and even on a bare perusal of the FIR no use of force has been showed by the complainant against the present petitioners. It is further asserted that no specific role has been attributed to the petitioners and they are also ready and willing to join

investigation.

3. Notice of motion.

4. On the asking of the Court, Mr. Rajiv Verma , 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 they along with other 30-40 men forcefully prevented police officials from performing their duty. The custodial interrogation of the petitioners is required for thorough investigation of the case. Therefore, the petitioners do not deserve the concession of anticipatory bail.

5. Having heard learned counsel for the parties, I am of the view that the allegation against the petitioners are serious in nature as when police party raided to unearth the ongoing illegal activity in the house of the locals regarding the making spurious alcohol (Lahan) in the village which took life of many people recently, the petitioners along with other 30-40 persons disrupted the working of the police officials and rather assaulted them by pushing and attacking.

6. Keeping in view that the menace of distilling of illicit liquor is a serious problem in Punjab, especially in view of the recent deaths reported in the city of Sangrur wherein 21 people have died due to consumption of illicit liquor. There is sufficient and direct involvement qua manufacturing of spurious alcohol wherein excessive amount of methanol is added to the making of illicit liquor which causes serious health impacts on its consumer and also spurious alcohol is brewed in obscure places and there are no taxes or checks on the quality of the ingredients and the outcome. It needs no fancy packing or vends to sell. The only USP is that it is much cheaper therefore, this menace has to be stopped or curtailed at the earliest so that the

the petitioners are serious in nature and therefore, the petitioners cannot be granted the concession of anticipatory bail.

7. The mere fact that the petitioners were not found on the spot or that the no force has been used by the petitioners against the police party has been proved, would not vest a right upon the petitioners for grant of anticipatory bail more particularly when there are other relevant factors which deserve consideration. It is not a case that the petitioners are involved in cases which constitute a private kind of offence or such kind of offences which affects only 1 or 2 persons but on the other hand the petitioners are involved in the commission of such an offence which affects large section of society and it has got not only an adverse social impact but also affects the rights of lives of people at large. There is no dispute regarding the fact that large number of people had died due to consumption of spurious liquor in the State of Punjab and therefore, confiscation of huge quantity of Lahan which affects large number of persons can certainly become a relevant ground for denial of anticipatory bail to the petitioners. Unlike the banned hooch brewed by villagers through traditional methods that take weeks, the spurious synthetic liquor (lahan) can be prepared in a 12x12 sq. ft. area within hours by just mixing methanol, a flavour, water and colour and this is the evident reason behind not letting the police party to conduct raid at the house of Suraj Singh and other co-accused persons. In this backdrop the assertion made by the petitioners that no force or criminal gesture upon the police party was used while interrupting the raid proceedings is liable to be rejected in view of the fact that the rising toll of deaths of innocent people by consumption of such spurious liquor reveals a well-organised network of bootleggers and as such the custodial interrogation is necessary to find out

the illicit and spurious liquor but also of the selling of the same.

8. 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 information 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.”

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

23.04.2024
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(SANDEEP MOUDGIL)
JUDGE