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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(207)

CRM-M-24769-2024 (O & M)
Date of decision:29.05.2024

Gurmit Singh @ Gurmeet Singh Petitioner
V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ramnish Puri, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.39 dated 26.03.2024 under Section 61 of the Punjab Excise Act, 1914 registered at Police Station Chattiwind, District Amritsar.

2. The present FIR came to be registered on the basis of secret information furnished to investigating agency and reads as under:-

“To the SHO Police Station Chattiwind "Jai Hind", today I ASI along with ASI Bikramjit Singh No. 11. ASI Baldev Singh No. 1225, PHG Baldev Singh No. 9972, PHG Palwinder Singh No. 2606 while riding on private vehicle along with laptop, printer were present at Aada Manidala. Then secrete informer came present and informed that Gurmeet Singh S/o Nirval Singh R/o Village Sanghana Havelia, P.S Chattiwind, Distt. Amritsar does the business of selling illicit liquor. If the raid is done now, then, illegal liquor, lahan can be recovered. Information was found to be credible & reliable. Accused Gurmeet Singh S/o Nirval Singh has committed offence u/s 61-1-14 of Excise Act. Upon this ruqa is being written for registration of FIR through hand



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of PHG Palvinder Singh 2606 to Police Station. After registration of FIR, the number may kindly be intimated. Me ASI along with fellow employees is leaving for raid at Village Sanghana Havelia. Verified by ASI Harjinder Singh dated 26.03.2014”.

3. Based on the aforesaid information, ASI Harjinder Singh conducted a raid at the house of the petitioner on 26.03.2024. However, the petitioner was not found at the spot. During the course of search of his house, two plastic drum containing 50 kgs. of *lahan* each were recovered. The investigating officer recorded the statements of the Sarpanch and Member Panchayat of village Sangna, Amritsar, who verified the ownership of the house of the petitioner from where the *lahan* was recovered.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, no recovery had been effected from his house and the same has been planted upon him. Therefore, he was entitled to the concession of anticipatory bail.

5. The learned counsel for the State, on the other hand, has filed a reply dated 29.05.2024 which is taken on record. While referring to the said reply, he contends that the recovery was effected from the house of the petitioner and the ownership of the house has been verified from the Sarpanch of the village. Further, the petitioner was a habitual offender with two other cases registered against him. Therefore, as the offence is *prima facie* established and the investigation was to be taken to its logical conclusion, the custodial interrogation of the petitioner was required.

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

7. The Hon'ble Supreme Court in the case of '*Sumitha Pradeep*



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merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may***



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not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

8. A perusal of the record would reveal that secret information was received that the petitioner was in the business of preparing illicit liquor. When the raid was conducted at his house, 100 kgs. of *lahan* was recovered. The house is owned by the petitioner. He is a habitual offender with two other cases registered against him. Therefore, as the offence is *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required.

9. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

10. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

May 29 2024
sukhpreet