

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

CRM-M-25429-2024
DECIDED ON: 20.05.2024

RAJINDER KUMAR @ RAJU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

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SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No. 74 dated 26.04.2024 under Sections 61 of the Punjab Excise Act, 1914 registered at P.S.Basti Bawa Khel, Jalandhar City, District Jalandhar.

2. The contents of the FIR reads as under:-

"Copy of Ruqqa. Officer Incharge, Police Station Basti Bawa Khol, Commissionerate, Jalandhar. Jai Hind. Today I, A.S.I. along with A.S.I. Ranjit Pal 3108, and CT. Jasandeep Singh 2131, along with laptop and printer of private vehicle and on Government vehicle No. PB-08-DS-4699, whose driver is ASI Avtar Chand 2699, in connection with looking for suspicious and bad elements were present on the bridge of Bawa Buda Ji Basti Bawa Khel Jalandhar that secret informer gave information to me ASI that Anil Kumar alias Sonu son of Sudesh Kumar, resident of Kamal Vihar, Leather Complex Gurvinder Singh Road, son of Jalandhar and

Kulwant Singh resident of Basti Peerdas Road, Jalandhar do the business of selling illegal liquor of Punjab and Chandigarh and there cases regarding illegal liquor registered against Anil Kumar alias Sonu earlier. Today also near the grocery shop, Anil Kumar alias Sonu is waiting for customers at the Gate of his house by keeping boxes of liquor and large quantity the remaining liquor in han been stored by him inside his house at New Rajan Nagar Basti Bawa Khel, Jalandhar, in huge quantity and this liquor is supplied to him by Raju Chauhan resident Jalandhar, of Basti Contractor Raman, Bawa Khel, resident of Kapurthala, Jassi, resident of Kartarpur and Contractor Gurdaspur, City Pathankot. Sonu along with his worker Gurvinder Singh in connivance with their suppliers of liquor and after purchasing the liquor are supplying the same to their customers. In case raid is conducted right now, then Anil Kumar alias Sonu and Gurvinder Singh aforesaid can be caught red-handed along with huge quantity of illegal liquor. The Excise Department was contacted and they were requested to come to the spot. This information being solid and believable, offence under section 61/1/14 Excise Act is made out and therefore, ruqa is being sent for registration of FIR through Ct.Jasandeep Singh 2131 to the Police Station. Case be registered and number be informed. Control Room and senior officers be informed. colleagues am I A.S.I. along with leaving for the place disclosed by the secret informer. Today in the area of Baba Buda Ji bridge Basti Bawa Khel, Jalandhar at 4.44 p.m. Sd/ English. Tarsem Lal, Commissionerate, 26.4.2024." ASI Crime Jalandhar. Branch.'

3. It has been contended on behalf of learned counsel for the petitioner that he has been falsely implicated in the present case and no recovery whatsoever has been effected from the petitioner rather the FIR was registered against two persons who further named the petitioner as a supplier of the recovered liquor.

4. Notice of motion.

5. Mr. Rajiv Verma, DAG, Punjab, appearing on advance notice accepts the same on behalf of respondent-State of Punjab. He vehemently opposes the prayer made in the present petition stating that the present case has been registered on the basis of secret information, the raid was carried out and illicit liquor was recovered. He asserts that the petitioner does not deserve the concession of pre-arrest bail, as he is involved in six other cases under the Excise Act, meaning thereby, he is not a person of clean antecedents.

6. Mr. Verma, contends that custodial interrogation of the petitioner is required to unearth the dimensions of the trade & also wants to recover distillation equipment & other material, if any. Hence, anticipatory bail be not granted to him.

7. Heard learned counsel for the respective parties.

8. In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The court has extraordinary power to protect an innocent person. However, this power has to be exercised by the courts with due circumspection.

9. The allegation against the petitioner is serious in nature. A huge quantity of illicit liquor has been recovered from the spot. The menace of distilling of illicit liquor is a serious problem in Punjab especially in view of the recent deaths taken place due to its consumption. The mere fact that the petitioner was not apprehended from the spot would not vest a right in him for the grant of anticipatory bail. Confiscation of a “huge quantity” of illicit liquor, is certainly a relevant ground for denial of anticipatory bail to an accused.

10. Moreover, the antecedents of the petitioner are also not good, as he is already involved in six cases of similar nature, wherein though in two FIRs he stands acquitted and in one FIR he was granted anticipatory bail and in present FIR he was declared innocent and was placed in column No.2 but this Court is not inclined to let the petitioner out on anticipatory bail as on earlier occasion he was granted anticipatory bail by the Co-ordinate Bench and after that also he has not mended his ways and he is again indulging himself in the illegal activities. The Apex Court in case “***Gudikanti Narasimhulu vs. Public Prosecutor, High Court of A.P.***”; (1978) 1 SCC 240, has already observed 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.

11. More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “***State vs. Anil Sharma***”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable 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 material 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 needs 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.”

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

20.05.2024
anuradha

(SANDEEP MOUDGIL)
JUDGE

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