

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32492-2024 (O&M)

Date of Decision: 10.07.2024

Sukhraj Singh

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Lakhwinder Singh, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J.

Relief

(1). This petition under Sections 438 CrPC has been filed by the petitioner seeking anticipatory bail in case FIR No.169 dated 24.06.2024 under Sections 61/4/2020 registered at Police Station Sadar Ratia, District Fatehabad.

Facts

(2). Facts as culminating in the FIR is reproduced as under:-

"To the SHO Police Station Sadar Ratia, Jaihind, Today I SI along with SPO Tejinder Singh 85 along with HGH Jaswant Singh 1954, with official vehicle and personal laptop were present at the bus stand Baliyala for patrolling and crime prevention. At that time a secret informer met me and told that Sukhraj @ Sukha son of Dalip Singh resident of Baliayla has kept liquor in a plastic tank or coloured water along with the wood lying on the roof of his house and illicit liquor might also be found. If an immediate raid is conducted then the matter can be controlled at the spot. Then I SI prepared a raiding party with his fellow officers regarding the informer and ask the passersby to join the raiding party who expressed their helplessness and left then the I SI reached the place of information with police party, and saw that a man was taking a liquor from a plastic tank or coloured water kept on the roof of the house. On seeing the police party, a took the advantage of

darkness and fled away on reaching the plastic tank of black colour he found liquor in it and on opening the lid of plastic cane lying nearby and checking it he found illicit liquor in it. Out of which one bottle was taken out as a sample, by making a tray, after arranging bottles and utensils the arrest of the illegal liquor was measured then the four bottles a illegal liquor was found to be illegal, the recovered illegal liquor was put in the same plastic cane or coloured bottle, the sample bottle /tray and cane plastic were sealed with RDC and the plastic tank of black colour in which about 200 Ltrs of liquor were recovered which was in the tank of black colour the mouth of liquor tank was tied with the cloth and after liquor was taken into police possession, property seizer memo, the witnesses put their signature on the property seizer memo, the seal was handed over SPO Tejinder Singh 85...”

Submission by the petitioner

(3). Learned counsel for the petitioner contends that no photographs of the alleged recovery of illicit liquor/lahan were taken and that apart, no independent private witness was joined particularly looking at the fact that the place of residence of the petitioner is surrounded by many other houses which shows that the petitioner is been intentionally and falsely implicated in the present case as the basis for nomination of the petitioner is only on the basis that one old case under Excise Act stood registered against him and in fact there is nothing material with the police to connect the petitioner with the alleged offence.

State's contention

(4). Learned State counsel opposed the prayer made by the counsel for the petitioner on the ground that the petitioner has been booked under the Excise Act and it is not the case of suspicion inasmuch as the petitioner has been caught with illicit liquor/lahan at the spot which all the more becomes substantial as the petitioner, at an earlier point of time also, was found involved

in distilling such illicit liquor, therefore, there is nothing mala fide or false implication by the police in so far as the petitioner is concerned. He further asserted that the contention raised by the petitioner is a matter of trial and the prosecution shall be bound to establish it at an appropriate stage.

Analysis

(5). It is an admitted fact that the petitioner has been booked under Section 61 of Excise Act as he was found to be in the unlawful possession of illicit liquor and lahan and was also found to be indulged in distilling the illicit liquor. In the present case also, it is mentioned in the FIR that 200 litres of lahan was recovered from the petitioner’s premises/house and he had also tried to flee away from the spot but was nabbed by the police. Besides, the police also recovered material, distil, utensil, implement and other apparatus used by the petitioner in manufacturing of the said intoxicant. The events that took place and the material recovered coupled with the fact that the petitioner had already been booked for the similar offence, leaves a little scope of doubt as to the conduct and history of the petitioner in the commission of the offence of the present sort attracting penal provisions under the Excise Act and for that purpose, the custodial interrogation of the petitioner would be necessary.

(6). Dismissed.

10.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No