**CWP- 25676-2021 (O&M)****-1-****IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH****221****CWP-25676-2021 (O&M)
Date of Decision: 07.11.2024**

Amit Kumar

..... Petitioner

VERSUS

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

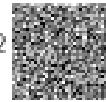
Present: Mr. Pardeep Kumar, Advocate for
Mr. Karan Bhardwaj, Advocate
for the petitioner.

Mr. M.S. Teji, AAG, Punjab.

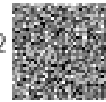
VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for directing the respondents police authorities to conduct a free, fair and impartial investigation in case FIR No.0001, dated 04.01.2021, registered at Police Station Focal Point, Ludhiana by some Senior Police Officer/IPS Officer or some independent agency claiming that the petitioner was not present at the place of occurrence on 4th January, 2021 and is being falsely implicated in the case.

Pursuant to the notice, a reply by way of an affidavit of Simranjit Singh, PPS, Assistant Commissioner of Police, Industrial Area, Ludhiana, dated 05.02.2022 had been filed on behalf of the respondents. The status of the investigation was, accordingly, brought on record. It is specifically stated in the said affidavit that on 04.01.2021 ASI Rajesh Kumar of Anti Smuggling Cell, Ludhiana, along with Excise Inspectors were present at Metro Road, Khebar Chowk, Ludhiana, when the said ASI Rajesh Kumar

**CWP-25676-2021(O&M)****-2-**

received a secret information that Deepak Kumar alias Tona, Nand Lal, Sandeep Kumar and 3-4 unknown persons indulge in supply of heavy quantity of illicit liquor. It was also informed that illicit liquor was being brought in the State of Punjab in Tata Canter 1109 bearing registration No.PB-11BR-6510 and in order to supply the liquor to their customers, they were loading the illicit liquor from the canter in a Creta Car near the house of Deepak Kumar situated at Rajiv Gandhi Colony, Ludhiana. Accordingly, the raid was conducted at the said address and some persons were seen loading the boxes of liquor from canter into the creta car. When the police party reached near the canter, then 5-6 persons got down and attacked the police party with sticks and bricks in which Excise Inspector Gopal Sharma received injury at their hands alongwith ASI Vinod Kumar. When the police party tried to apprehend the said persons, certain accused ran away in creta car but one of them could not board the creta car and he was nabbed by the police party. He disclosed his name as Nand Lal and further disclosed that the names of two persons, out of the persons who ran away in the creta car, were Deepak Kumar and Sandeep Kumar but the names of the remaining persons were not known to the said Nand Lal. Thereafter, the ASI checked the said canter which was in the name of Sandeep Kumar and from the said canter, a total of 64 boxes of illicit liquor (i.e. 22 boxes of 111 Ace Whiskey, 28 boxes of 777 Oak Vat Whiskey and 14 boxes of Sikkim Special Whiskey) were recovered from the canter and the same were taken into possession by the police. Injured Excise Inspector Gopal Sharma and ASI Vinod Kumar got themselves medically examined from Civil Hospital, Ludhiana. As per the MLR of said Excise Inspector, one injury on right hand has been reported



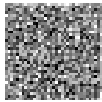
CWP-25676-2021(O&M)

-3-

by the doctor. Similarly there were two injuries i.e. one at right hand and another C/o pain over left arm mentioned by the doctor in the MLR of ASI Vinod Kumar. Subsequently Sandeep Kumar was arrested on 20.02.2021. During his interrogation, it was revealed that Deepak Kumar and his companions had attacked on the police party on 04.01.2021. As a result of the said disclosure, Vipin Kumar and Rahul Kumar were arrested on 06.03.2021. The said accused recorded their confessional statements to the effect that on 03.01.2021 they had purchased the above noted liquor from the present petitioner and he had delivered the liquor to them on the way from Chandigarh and from there, the said persons, had brought the liquor in the Canter. In the above manner, the petitioner was nominated as an accused, being the supplier of the liquor.

After completion of the investigation, challan/final report under Section 173 Cr.P.C had been presented against the petitioner and his co-accused before the trial Court on 19.01.2022. The charges are yet to be framed. Despite the said status report having been filed on 05.02.2022 and more than 1½ years having already elapsed, no rejoinder has been by the petitioner to the same. Hence, the status report and the attribution against the petitioner remains uncontroverted.

The sole reason for the petitioner to have approached this Court was that he was not present at the spot where the incident occurred. The same thus stands *prima facie* explained by the respondents. Hence, the defence raised by the petitioner, at best gives rise to disputed question of fact, which cannot be gone into by this Court under Article 226 of the Constitution of India.



The present petition is accordingly dismissed.

However, liberty is granted to the petitioner to take all pleas before the trial Court. The observations/facts recorded hereinabove are solely for the adjudication of the instant writ petition and shall have no bearing on the final determination of the case by the trial Court.

07.11.2024.
monika

(VINOD S. BHARDWAJ)
JUDGE

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