

CRM-M-46619-2023

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(201)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46619-2023

Date of decision :27.02.2024

GORA @ GURPREET SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Umesh Aggarwal, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.190 dated 20.09.2022 registered under Sections 61-1-14 of the Punjab Excise Act, 1914 at Police Station Lopoke, District Amritsar (Rural).

2. The brief facts of the case are that on 20.09.2022, the Investigating Agency received information that a huge quantity of illicit liquor or Lahan could be recovered from the house of the petitioner if an immediate raid was conducted. On the basis of the information, the FIR in question came to be registered. A raid was conducted at the house of the petitioner on the same day and the petitioner was seen burning the still near the bathroom. On seeing the police party, he fled away from the spot by jumping through the wall. He was identified by one H.C. Jung Bahadur Singh.

3. During the checking of the house of the petitioner, a working still with a boiler containing 150 Kgs of Lahan, three plastic drums each containing 180 Kgs of Lahan and 100 bottles of illicit liquor were recovered.

4. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. Other than the instant FIR, there was no other case registered against him. As he was ready and willing to join investigation, he was entitled to the concession of bail.

5. A short reply dated 19.02.2024 by way of an affidavit of Sukhjinder Singh Thapar, PPS, Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural) has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, she contends that the petitioner was named in the secret information. A raid was conducted at his house wherein, he was seen manufacturing illicit liquor. He fled away from the spot and was and identified by police officials. Pursuant thereto, a huge recovery of illicit liquor was effected from the premises. As the offence was *prima facie* established, the petitioner was not entitled to the concession of bail.

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

7. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that 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 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. Admittedly, the petitioner was named in the secret information. When the raid was conducted in his house, he was found manufacturing illicit liquor. A huge quantity of the same has been recovered from the said premises. Therefore, the offence *prima facie* established. Hence, the petitioner is not entitled to the concession of anticipatory bail.

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

10. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

27.02.2024
JITESH

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