

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44931-2024
Reserved on: 04.11.2024
Pronounced on: 12.11.2024

Darshan Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Angrej Singh Sarwara, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
235	08.10.2017	Sadar Patiala	61 of Excise Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. Per paragraph 11 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	290	09.09.20216	61/1/14 of Excise Act	Tripuri, District Patiala

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

- “4. That in compliance to the order dated 13.09.2024 passed by this Hon'ble Court, it is submitted that the brief facts of the case are that on 08-10-2017, the police party lead by HC Prem Chand No.781 were present turning T-point near the village Bilaspur on Balbera- Patiala and were checking the vehicles passing from there. At around 2:30 PM, a car came from the Balbera side at a high speed, which was signaled to stop by PHG Gurmeet Singh on the instruction HC Prem Chand. Instead of stopping the car, the driver of the car tried to sped up to escape the checkpoint and the car out of control in pits and struck against Sheesham tree on the left side of the road. The driver immediately came out of the car and ran into the nearby paddy fields on the left side.
5. The I.O. HC Prem Chand along with his colleague

employees managed to apprehend the person who alighted from the conductor's seat of the car. On asking his name and address, he disclosed his name as Darshan Singh, son of the late Boota Ram, caste Bazigar, resident Village Karamgarh, Police Station Tripuri. District Patiala (the petitioner). The petitioner also disclosed the name of fleeing driver as Bhag Chand. caste Mazbi, resident of Village Bhanra. Police Station Passiana, Patiala.

6. That then the I.O. checked the car, No.PB-13AW-3593 make Toyota Etios, which had collided with the sheesham tree. The front portion of the car, including the bonnet and radiator, was badly damaged. On searching the vehicle, 30 boxes containing a total of 360 bottles of liquor were recovered from the dicky of the car, each bottle marked with the label 'For sale in Haryana only, Santara Country Liquor'." Then the I.O. made arrangements to obtain plastic drums, and the recovered liquor-360 bottles of country liquor with the brand "Santra" from Haryana-were systematically opened and put in two plastic drums. One sample of a quarter each was taken out each drum. The 360 empty bottles of Santra brand country made liquor were then packed into three separate plastic bags, each containing 120 empty bottles. The recovered liquor contained in two drums and three plastic bags of empty bottles were duly sealed by the I.O. with his seal bearing PC. The recovered liquor and three plastic bags of empty bottles were taken into police possession through separate memos. Specimen seal was prepared separately. The seal was handed over to Constable Baldev Singh, No. 2236 after use. The petitioner was arrested at the spot. The petitioner and above noted Bhag Chand by keeping the above noted liquor in their Toyota Etios car (registration number PB-13AW-3593, white color) possession, the petitioner and above noted Bhag Singh committed an offense under Section 61/1/14 of the Punjab Excise Act.. Therefore, after writing Ruqa. the I.O. send the same to the Police Station Sadar, Patiala for the registration of a case against Bhagat Chand and Darshan Singh above noted. At this above noted case was registered against them. As per report of D.T.O. Patiala, the registered owner of the above noted car is Bhag Chand s/o Parkash Chand resident of village Bhanra, District Patiala."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

"11. That the petitioner was arrested with 30 boxes containing a total of 360 bottles of liquor each bottle marked with the label 'For sale in Haryana only, Santara Country Liquor' from Toyota Etios car registration number PB-13AW-3593, white color and was arrested at the spot. However, co-accused Bhag Chand (driver of the said car) was escaped from the spot by running through paddy fields."

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Petitioner was on bail and due to non-appearance, his bail stand cancelled. Per paragraph 8 of the bail petition, the petitioner has been in custody since 21.05.2024. Per the custody certificate dated 02.11.2024, the petitioner's total custody in this FIR is 05 months and 22 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the

official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

12.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.