

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-51714-2024 (O&M)

Date of Decision: 19.10.2024

Jagwinder Singh

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. TPS Tung, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J.

Relief

(1). This petition under Sections 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed by the petitioner seeking anticipatory bail in case FIR No.238 dated 03.08.2024 under Sections 318(4), 336(3), 338, 340, 61 of BNS, Section 61(1)(a) of the Excise Act, registered at Police Station Manesar, District Gurugram.

Facts

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

“To the S.H.O. Police Station Manesar District Gurugram, Sir it is requested that I was on Government Duty today i.e. 03.08.2024 | Sombir Singh S.I. No. 211 along with companion police officials EHC Manoj Kumar No. 2118, EHC Jatinder No. 3664 in Government vehicle Bolero Bearing Registration No. HR26GV-8183 which was being driven by EHC Ashok Kumar No. 3016 and were on patrolling duty on highway No. 48 and were present at Manesar Bus Stand then a secret informer informed that a vehicle is coming from kundli border side from the KMP Road and from the Panchgoan Chownk turned towards Benola Gaon and at present the said vehicle is parked near the Shyam Vaishno Dhaba on the road in the vacant space and the said vehicle is

loaded with illegal liquor which has been brought in huge quantity from Punjab. The vehicle is six tyre truck with a closed body Bearing Registration No. RJ32GD-7126 which is being driven by Sudesh S/o Roop Lal R/o Khurtara, Police Station Karhal, District Manपुरi Uttar Pradesh and he is to take the said vehicle to Bihar and that in case immediately a raid is conducted then the truck can be caught with huge illegal liquor. The information was shared with Incharge Crime Branch Manesar and the information was also shared with the companion police officials and I tried to include some public person for conducting the Nakabandi but all of them refused by citing personal difficulty and did not join us. As the time was less and no notice could be given then I along with companion police officials and secret informer started towards the place of occurrence as told by the secret informer at about 2:15 PM and reached there. The truck was parked on the side and was seen there with the registration number as told by the secret informer. The secret informer left the place. I along with the companion police officials went near the truck and the driver of the truck was sitting on the driver seat. He was asked to come out of the truck and his name was enquired on which he told his name as Sudesh Kumar as told earlier by the secret informer and he told that the truck was loaded with bajaj fans and he further told that the owner of the truck is Sonu and Anil. The said Sonu and Anil both are coming along with the truck in a Swift Car of white colour bearing registration no. HR88A-8717. They were coming in the car behind the truck and that he is driving the truck in front of them. They told me that they will be coming back after sometime and he further told that the truck was handed over to him at Ambala near the toll plaza by the owner of the truck and his companion. Sonu and Anil had handed over the truck to him and the driver of the truck gave the bilty of the material loaded in the truck on checking the bilty on the front page it was written tax invoice-invoice ACK NO. 172415492928756 ACK Date 30 July 2024 in which there were 915 boxes farrata neo 500 mm grey pedestal had been written and it was loaded from Nimrana for Patna Bihar and the bill bilty on the second page it was written invoice no. D367 dated 30.07.2024 vehicle no. RJ32GD-7126 bajaj fan was written. Now it was about 2:20 PM the

driver of the vehicle Sudesh Kumar above mentioned was having truck of closed body as mentioned above and its back door/dala was opened and checked and it was found that there was no fans inside the truck. But there was liquor in boxes and the driver was caught and he was asked to produce the documents of the truck and liquor and any license regarding the liquor. The driver of the truck could not produce any document. The truck mentioned above was loaded with huge quantity of liquor as it would have taken lot of time in case the counting of the liquor bottles and the taking out of the samples of the liquor and in order to seal them would have taken lot of time. In order to save time the above mentioned vehicle under the supervision of the companion police officials was got driven by above mentioned Sudesh Kumar and the same was brought in the premises of the police station Manesar at about 3:20 PM. Then with the help of companion police officials I got checked the liquor loaded in the truck and found that the same was English liquor in boxes out of which five boxes were of pint (quarter) of English whisky royal general premium blended whisky, 118 boxes of (half) of English liquor royal general premium blended whisky, 17 boxes of bottle of royal general premium blended whisky and 80 boxes of quarter English whisky imperial style blended whisky and 75 boxes (half) English whisky imperial style blended whisky was recovered from the truck. On all the whisky boxes it was written for sale in Chandigarh only. From the recovered whisky, quarter, half and bottle of each brand, one quarter from each box, one half from each box and one bottle from each box was taken out as sample the sample taken out and the box of liquor were sealed and stamped as AK on each and every parcel and the seal after use was handed over to EHC Manoj Kumar No. 218. The accused above mentioned driver of the truck who was having the truck without any document and was having loaded truck of English liquor as mentioned above and keeping the same without any license and has further produced forged documents regarding bilty of bajaj fans and has used the same and has thus committed offences punishable under section 318(4), 338, 336(3), 340(2) and 61(2) of the BNS and section 61(1) (a) of the Excise Act. The audio and video footage of the same was prepared and now I am writing this letter for

registration of the F.I.R. to the MHC of Police Station/Administrative Officer Police Station Manesar and case in this regard be registered and I be informed about the case number and the investigation of the case be handed over to some other investigating officer I am busy in the investigation in the premises of the Police Station. Today a letter/ruqa has been received in police station Manesar from Sub-Inspector Sombir Singh No. 211/Gurugram Crime Branch Manesar dated 03.08.2024...”

Submission by the petitioner

(3). Learned counsel for the petitioner contends that only because the petitioner is partner of the firm which had taken the liquor vend auctioned by the Chandigarh Excise Department, that the name of the petitioner has been implanted. He further urged that the petitioner is not owner of the truck which carried illicit liquor and the entire case of prosecution is based on disclosure of the accused person allegedly apprehended with illicit liquor and as such, the offences as added in FIR are not made out against the petitioner as his name is not included in the FIR.

State's contention

(4). Learned State counsel opposed the prayer made by the counsel for the petitioner on the ground that the petitioner is previous offender and has been found involved in yet another FIR No.287 dated 16.12.2023 under Sections 120-B/420/468/471 IPC and Section 61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) registered at PS Sadar Kanina, District Mahendergarh and therefore he is not entitled for any concession by this Court.

Analysis

(5). A perusal of the FIR would show that a truck driven by accused Sudesh was apprehended on getting a secret information. On interrogation, it came to light that Anil and Sonu are the owners of the truck. The truck was

loaded with Royal General Premium Blended Whiskey (quarter – 5 cartons, half – 118 cartons, full – 17 cartons); Imperial Style Blended Whiskey (quarter – 80 cartons, half – 75 cartons), were recovered from the truck. Though it is averred that the petitioner is a licensed liquor vendor. Moreover, no document or licence to carry such heavy quantity of liquor was produced by the driver to use and consume such liquor in marriage function.

(6). So much so, it is an admitted position of fact that petitioner has been found involved in another case of similar nature which indeed obliterate his defence. The plea of false implication in cases of such nature cannot be accepted moreso when no ulterior motive or animosity for implication of petitioner’s name only by the accused persons is pointed out. That apart, once prima facie active role of the petitioner is evident, the rest of the issues are a matter of trial and it is for the petitioner to prove his innocence by leading cogent evidence as to whether or not such huge quantity of liquor was being supplied at the behest of the petitioner or any other person.

(7). In the light of the above discussion based on material before this Court, the concession of anticipatory bail, surely, cannot be extended to him.

(8). Hence, dismissed.

19.10.2024
V.Vishal

(Sandeep Moudgil)
Judge

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

Yes/No
Yes/No