



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57494-2024
DECIDED ON: 19.11.2024

KULDEEP ALIAS BALHARA
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.206, dated 12.07.2024, under Sections 115, 190, 191(3), 310(2), 311, 331(6), 324(4), 326(G), 62 of BNS, 2023, Section 25 of Arms Act, 1959 (Sections 61(2), 324(5), 115(2) of BNS added later on and Section 115 is replaced with 115(2) during investigation), registered at Police Station Sadar Dadri, District Charkhi Dadri.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“To, SHO, Police Station Sadar Dadri. Sir, it is submitted that I, Hans Raj @ Hansa son of Nathu Ram, am resident of Charkhi, District Charkhi Dadri and doing work of

contractor. In the name of the Brothers and Company Firm Sunil Kumar Badhwana the liquor vend of Chhappar group issued for the year 2024-25 and from this firm near canal I got liquor vend in village Charkhi. The rent of this liquor vend is in my name and on the liquor vend Sandeep son of Hawa Singh, Narender son of Satbir, resident of Gothia Chhoti, District Churu, Rajasthan are working as salesman. On 06.07.2024 from Mobile No.7015861402 on my mobile No. 7015890950 a telephone received that Shri Bhagwan of village Charkhi is speaking. He asked me on telephone that Pahalwan the liquor vend of Charkhi is with you, I stated yes. Upon this Shri Bhagwan stated that if anybody takes liquor vend of village Charkhi then I and Harish, Pardeep @ Dhillia of our village doing partnership or otherwise we would take monthly from the contractor. Either you put my share in the liquor vend otherwise we would not permit you to run this liquor vend and put fire in your liquor vend. You know very well that my brother Pardeep has various cases against him and on run. On 12.07.2024, I was sleeping at my home in village Charkhi and received information that at 4/5 O'clock in the morning somebody broke the gate of liquor vend and gave injuries to above aforementioned Narender salesman. Upon this information I reached at the spot and found that my salesman Narender sustained many injuries on his head and body and salesman Sandeep also received injuries. Salesman Narender told that I and Sandeep were sleeping inside the liquor vend. 10-12 persons came and started to brake the door of liquor vend from lathies and dandas. One of them said that he is Pardeep @ Dhillia, resident of village Charkhi and upon asking of my brother Harish and Shri Bhagwan, Hans Raj did not accept their partnership and now we would put fire in the

liquor vend. After saying this Pardeep @ Dhilla said that Balhara brake the lock (kundi) of the liquor vend and asked DC Bawa to put the liquor bottles packet from outside the liquor vend. Then after breaking the lock of gate they entered into the liquor vend and Pardeep @ Dhilla show me the pistol and said that you are residents of outside and why you are keeping your life in threat for Hansa. When I opposed this then he intimidate to kill me from bullet. Then all the three gave me and Sandeep injuries by iron rod and dandas on head and various parts of body. All of them broke the bottles of English and country made wine, bear, cane etc. From the cash box they took 15-20 thousands of rupees. Pardeep @ Dhilla stated that DC Baba put the oil in the liquor vend and give fire. Upon this DC @ Baba pour oil from two plastic canes by himself and with the help of one another person and pour the oil inside the liquor vend. The another person having cane also pour the oil. Now I, after arranging vehicles got admitted my two salesmen in Civil Hospital, Charkhi Dadri. From there Salesman Narender referred to PGIMS Rohtak. Pardeep @ Dhilla along with his companions Deepak @ DC @ Baba, resident of village Charkhi, Kuldeep @ Balhara, resident of Charkhi and 7-8 other unknown boys in connivance with his brother Harish and Shri Bhagwan gave injuries to my salesmen Narender and Sunil after breaking the door of my liquor vend located in village Charkhi and caused damage to put the liquor outside and also caused damage inside the liquor vend and then after pour oil tried to commit fire and also brought 15-20 thousands rupees from cash box. Strict legal action taken against them. Applicant Hans Raj @ Hansa son of Nathu Ram, resident of village Charkhi, dated 12.07.2024.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner would submit by referring to the narrated version of the FIR wherein the petitioner was present along with 7 to 8 other persons at the place of occurrence but subsequently he produced the CCTV footage to counter the said allegations falsifying the stand of the prosecution wherein he was not seen present at the spot of alleged occurrence. However, subsequently improvising the stand taken, they implicated the petitioner with the aid of Section 61(2) assigning the role as a conspirator for commissioning of the crime under Sections 115(2), 190, 191(3), 310(2), 311, 331(6), 324(4), 326(G), 62 of BNS, 2023, Section 25 of Arms Act, 1959 and Sections 324(5), 115(2) of BNS, 2023. It is on the strength of aforesaid facts, learned counsel for the petitioner asserts before this Court that neither he was present at the spot nor has played any direct or indirect role in the commissioning of the said offence and the fact as has been alleged by the prosecution that the petitioner was working as a contractor of liquor vend near the Kanal village Charkhi Dadri, is also incorrect as it is his brother Pardeep @ Dhilla, who is doing the said business.

On behalf of the State

Learned State Counsel appearing on advance notice, submits that the petitioner is the main conspirator and is a co-sharer of the liquor vend along with his brother Pardeep @ Dhilla, who along with other co-villagers has been collecting money from other liquor vend operators and as such, is involved in extracting money from other persons whosoever wishes

to open any liquor vend in the area falling within the territorial jurisdiction of Charkhi Dadri.

4. **Analysis**

Be that as it may, except from the above stated role pointed out by learned State counsel, no incriminating material has been put forth by the prosecution against the present petitioner which could necessitate his custodial interrogation inasmuch as neither the presence of the petitioner is *prima facie* established till now at the spot of occurrence nor any averment has been made qua recovery of any article or other items from his possession.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

19.11.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>