

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10193-2025
Reserved on: 11.03.2025
Pronounced on: 19.03.2025

Rupinder Singh @ Kulwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Neha Shukla, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	13.01.2025	Dharamgarh, District Sangrur	61/1/14 of Excise Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC seeking regular bail.

2. Per paragraph 2 of the order passed by Sessions Judge, Sangrur, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	111	03.07.2018	61/78 of Excise Act	Lehra
2.	18	10.04.2019	61 of Excise Act	Dharamgarh
3.	36	15.07.2019	61 of Excise Act	Dharamgarh
4.	127	23.09.2019	61/78 of Excise Act	Bareta
5.	57	11.10.2019	61 of Excise Act	Dharamgarh
6.	71	30.11.2019	61 of Excise Act	Dharamgarh
7.	90	07.10.2020	61 of Excise Act	Dharamgarh
8.	32	19.06.2021	61 of Excise Act	Dharamgarh
9.	68	16.12.2021	61 of Excise Act	Dharamgarh
10.	30	04.07.2023	61 of Excise Act	Dharamgarh
11.	07	12.02.2024	61 of Excise Act	Dharamgarh
12.	24	17.05.2024	61 of Excise Act	Dharamgarh
13.	37	02.08.2024	61 of Excise Act	Dharamgarh

3. The facts and allegations are being taken from FIR translated in para no.2 of the bail petition, which reads as follows:

“To SHO PS Dharamgarh, Fateh. Today 1 HC alongwith HC Jagga Singh 721/SNG, PHG Jarnail Singh 371/23, PHG Janta Singh 48002

were present at bridge canal within the limits of village Ganduan on our private vehicle along with laptop and printer on patrolling and checking of suspicious persons and at about 6:10 pm, I HC received secret information that Rupinder Singh @ Kulwinder Singh son of Malkit Singh resident of village Gaduan is habitual of bringing cheap desi liquor from Haryana state without permit and selling the same at Dana Mandi of village Gaduan and if a raid is conducted just now then above said Rupinder Singh @ Kulwinder Singh can be apprehended with Haryana State desi liquor. Information is trustworthy so a case under section 61/1/14 of Excise Act is made out against Rupinder Singh @ Kulwinder Singh for keeping in possession desi liquor of Haryana State without permit. Ruqa is written to register case against above said Rupinder Singh @ Kulwinder Singh under aforesaid sections and same is sent to Police Station through PHG Janta Singh 48002. FIR no. be intimated after registering the case. Control room Sangrur be intimated. I along with fellow employees is proceeding towards the spot. 6:20 pm, within the limits of village Gaduan Sd/- Khushwinder Singh HC Dharamgarh dated 13.01.2025.”

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. He further submits that petitioner undertakes not to repeat the offence. In case he does so, State may proceed for cancellation of bail.

5. The State's counsel opposes bail.

6. Recovery of liquor has already been affected, pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, per paragraph 4 of the bail petition, the petitioner has been in custody since 13.01.2025. 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 for further pre-trial incarceration at this stage.

7. 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.

8. 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.

9. 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)	

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

11. 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.

12. In Vikash Kumar Gupta V. The State of Bihar, SLP 11952-2024, Decided on 11-09-2024, a Three-member Bench of Hon'ble Supreme Court, while granting bail, holds,

(ii) Since the petitioner has a track record of his involvement in cases under the Excise Act, it is directed that in case the petitioner is found involved in such like cases in future, it shall be taken as a misuse of the concession of bail.

13. The petitioner shall not repeat the offense and shall be bound by the abovementioned condition.

14. Given the background of allegations against the petitioner, it becomes paramount to protect the illicit liquors detection squad and their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

15. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

16. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

19.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.