

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50167-2024
Reserved on: 13.01.2025
Pronounced on: 27.01. 2025

Ravinder Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Argued by: Mr. Satish Sharma, Advocate for
Mr. R.S.Mamli, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0291	28.08.2024	Bhuna, District Fatehabad	61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents but as per reply dated 04.12.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Sections	Police Station
1.	329	-----	307, 120-B IPC & 25-54-59 of the Arms Act	HPM, Hisar

3. The facts and allegations are taken from the reply filed by the State.

2. That the brief facts of the case are that the present case was registered on the complaint moved by complainant Surender Kumar, Excise Inspector, Excise Department, Fatehabad regarding opening liquor vend illegally wherein he stated that he alongwith Jagdish Chander ESI, EHC Anand Kumar on government vehicle bearing registration no. HR-22GV/3979 being driven by Vinod Kumar driver, checked the liquor vend of village Kunal while going from Bhuna to Nanhedi Road on which Rajender (co-accused) son of Bira Ram, resident of Kunal met them and

he was asked to produce the receipt regarding fee of the liquor vend but he could not produce any licence or fee receipt The liquor vend was accordingly checked and 40 bottles of Carlsberg bear, 24 bottles of Tuborg beer, 84 bottles of Thunderbolt beer, 60 bottles of country made liquor markaHeer Sonfi, 60 bottles of Malta, 24 quarters, 120 bottles of Malta ADS, 24 halves, 300 quarters, 12 bottles of Shahi, 100 halves and 11 bottles of English wine Rockford, 100 bottles of All Season, 12 bottles of Signature, 10 bottles of Macdowell no 1, 6 bottles of Imperial Blue, 11 bottles of Royal Stag were recovered which were kept by him without any valid license and fee. On the complaint of complainant, present F.I.R. was registered under section 61-4-20 of Excise Act at Police Station Bhuna against one accused namely Rajender and investigation was carried out.

3. That after registration of the present F.I.R, the investigation was further entrusted to SI Ishwar Singh No. 924 and during investigation, in the supervision of complainant, recovered 40 bottles of Carlsberg bear, 24 bottles of Tuborg beer, 84 bottles of Thunderbolt beer, 60 bottles of country made liquor markaHeer Sonfi, 60 bottles of Malta, 24 quarters, 120 bottles of Malta ADS, 24 halves, 300 quarters, 12 bottles of Shahi, 100 halves and 11 bottles of English wine Rockford, 100 bottles of All Season, 12 bottles of Signature, 10 bottles of Macdowell no. 1, 6 bottles of Imperial Blue, 11 bottles of Royal Stag were taken into police possession vide separate seizure memo and spot memo was prepared and co-accused Rajender was arrested in accordance with Law.

*4. That during the course of investigation, on 28.08.2024, co- accused Rajender Singh alias Chotala suffered disclosure statement (**Annexure R-1**) wherein he disclosed that **"I work as a Labourer at the liquor vend of village Kunal for about one month and I have received salary of rupees 9000/-. He further disclosed that Rajender Singh son of Kasi Ram resident of Vidiya Gandhi Tehsil Bhadra District Hanumangarh and Ravinder Kumar (petitioner-accused) resident Manawali had employed me in village Kunal by saying that we have paid the contract fee, you start the job, and I started the job due to my disability. Rajender Singh and Ravinder Kumar (petitioner) used to put liquor in the said Vend and used to take the money for selling the liquor."***

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 reply.

6. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

7. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

8. Given the above, the penal provisions invoked 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 custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order. 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 anticipatory 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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/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. The bail order is subject to the petitioner's complying with the following terms.

12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. 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.

14. 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 be at liberty to cancel this bail.

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

16. 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.

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

(ANOOP CHITKARA)
JUDGE

27.01, 2025
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Whether speaking/reasoned: Yes
Whether reportable: No.