

229

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50928-2024

Date of Decision:23.01.2025

Jai Bhagwan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A. P. Kaushal, Advocate,
for the petitioner.

Mr. Ashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
101	22.04.2024	Baruda, District Sonipat	61 of 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 BNSS, seeking anticipatory bail.
2. Vide order dated 15.10.2024, the petitioner was granted interim bail, which is continues till today.
3. The petitioner's counsel prays for bail by imposing any stringent conditions including surrender of firearms and not repeating the offence. The petitioner’s counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The State's counsel opposes bail and refers to the following para of the reply:-

“7. The role of the petitioner in investigation came out that petitioner/accused Jai Bhagwan alias Bhana has got named in the disclosure statement of accused Suresh as petitioner works as a clerk of liquor shop in Village Kathura. Petitioner/accused Jai Bhagwan alias Bhana ordered accused Suresh that he has to bring illegal liquor from Gohana and then petitioner/accused Jai Bhagwan along with accused Suresh came Gohana and loaded the illegal liquor in the Tempo bearing No. (TATA ACE) HR-69E-1342 and told him that I (Jai Bhagwan) will meet you at village Kathura, where you have to unload the boxes but by the action of Police they were caught. Now investigation is still pending, the case is fixed for awaiting challan.”

5. There is no allegation that the alcohol was methyl alcohol. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although 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 the same for the bail stage.

6. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the following additional conditions.

7. 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 bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

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

9. **Petition is allowed. Interim order dated 15.10.2024 is made absolute.** All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

23.01.2025

M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No