

CRM-M-54065-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54065-2025
Reserved on: 01.10.2025
Pronounced on: 29.10.2025

Salim Bhai Sama ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Chauhan, Advocate
for the petitioner.

Mr. Birender Bikram Attrey, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
79	12.03.2025	Sadar Nuh, District Nuh	318(4), 338, 336(3), 340, 61 of BNS 2023 (Corresponding Sections 420, 467, 468, 470, 120B IPC and 61(1)(a) of 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 19 of the bail petition, the petitioner declares that he has no criminal antecedents.
3. The facts and allegations are taken from the reply filed by the State, which reads as under:-

“3. That the detailed facts emanating from the present case are that on 12.03.2025, SI Mukesh Kumar along with Ct Sonu No.1169/Nuh, Ct. Abhishek No. 507/Nuh in government vehicle No.HR-96GV-3333, whose driver was Ct Nahender Singh No.962/Nuh and they were present near Police Line, Nuh for crime detection and crime control. In the meantime, a secret informer met to SI Mukesh Kumar and shared an information that a

CRM-M-54065-2025

LP truck 14 tyres, covered with wooden body, whose registration no. GJ-10T-X-7277 is coming from Sohna side. The driver of the vehicle is Mula Ram son of Jeta Ram resident of near Ramdev temple, Chadar Setrau, police station, Ramsar, district Barmer Rajasthan, who has kept the illegal liquor under the above mentioned sacks of peanut shells and sawdust and has covered it with yellow coloured tarpaulin in connivance with accountant of owner of the aforesaid vehicle. The liquor has been loaded with fake bills and is being taken to somewhere for sale. If a barricade is installed at this spot then the accused can be apprehended red handed along with the illegal liquor. The information was considered to be reliable and SI Mukesh Kumar shared the secret information with his police party and constituted a raiding party and started the barricading at the spot as contended by secret informer. After about 10-15 minutes, a truck no. GJ-10TX-7277 was seen coming from Sohna side upon which, the secret informer told that this is the same vehicle, which is loaded with illegal liquor. The aforesaid truck no. GJ-10TX-7277 was signalled by SI Mukesh Kumar to stop. On seeing the police party, the drive of truck suddenly stopped the truck about 10/15 steps before the barricade and got down from the vehicle and started running away from the spot. Thereafter, SI Mukesh Kumar apprehended the driver of truck no. GJ-10TX-7277 with the help of police party. On asking his name and address, the driver told his name as Mula Ram son of Jeta Ram, resident of near Ramdev temple, Chadar Setrau, Police Station, Ramsar, District Barmer, Rajasthan. He was asked about the goods loaded in the vehicle, upon which, he told that the vehicle is filled with sacks of puffed rice and showed two photo copies of bills of puffed rice goods, which were issued by M/S Total Logistics Service TLC, bill number LR No. 1549 and two copies of e-WAY BILL no. 301955296741 dated 09.03.2025, of the goods, which was issued at the name and address of Yogesh Enterprises Ludhiana, Moffusil, 03 Punjab, 141202. On asking the driver strictly, he told that the vehicle is loaded with illegal liquor. He has further told that the accountant of the aforesaid vehicle is Kamlesh and he (Kamlesh) told him that go from KMP Road Rewasan and kept on going towards Alwar and he will tell him on the way, where to take the liquor. However, he did not receive any call from accountant Kamlesh. He kept driving the vehicle towards Alwar. He has brought this liquor vehicle from Chandigarh, Ludhiana-Rajpura Road, Chandigarh. Thereafter, Excise Department Inspector, District Nuh was informed at his mobile no. 94674xxxxx for arriving at the spot and SI Mukesh Kumar parked the LP truck on the side of the road and opened the rope of the vehicle, removed the tarpaulin and opened the sacks and

CRM-M-54065-2025

checked them, which was having boxes of liquor in the body of the LP truck. After sometime, Sh. Bisambar Dayal, Excise Department Inspector, District Nuh, came to CIA Nuh in his personal vehicle and in his presence, the liquor boxes were unloaded from the body of the LP truck with the help of labour, then the vehicle was found loaded with boxes of English liquor. When the driver was asked for the licence and ownership document of the liquor, on which, he could not produce any document. He was also asked about his associates involved in the illegal liquor business, on which, he said that he is running this illegal liquor business in connivance with Kamlesh, resident of Jodhpur, who is accountant of vehicle owner. Even after checking the cabin of the vehicle, no permit and any documents of the vehicle regarding the liquor.

After unloading the illegal liquor from the vehicle, it was checked, which were 128 boxes of liquor bottles of brand Imperial Blue (Batch No. IBR 207 Date 28.01.2025), 80 boxes of brand Imperial Black (Batch No. IBK 16 Date 18.05.2024), 44 boxes of brand Imperial Blue Half (Batch No. 12 10 Date 17.12.2024), 195 boxes of bottles of brand McDowell's No.1 Original (Batch No. 21/L16 10.01.2025), 140 boxes of half bottle of brand McDowell's No.1 Original, (Batch No. 18/L12 09.01.2025), 90 boxes of quarter bottle of brand McDowell's No.1 Original, (Batch No. 312/L14 19.02.2024) United Spirits At Chandigarh Distillers & Bottlers Ltd. Banur Distt. S.A.S Nager (Mohali) Panjab 140601. The total boxes of the aforesaid brands are 677X12, which are total 8124 bottles. From each batch of each brand of the aforesaid liquor, 2/2 bottles, half, quarter liquor (6 bottles, 4 half, 2 quarter) were taken out as samples and the sample liquor was stamped with 1/1 seal of MK. The seizure memo of the liquor and sample liquor were all stamped and the vehicle LP truck along with the bill and documents were taken into police possession through memo of recovery and the said memo was got attested from the attesting witnesses. A copy of said recovery memo is annexed as Annexure R-3. Accused/petitioner Mula Ram in connivance with the accountant Kamlesh resident Jodhpur and also with the help of other illegal liquor smuggler, whose name and address were unknown, illegally loaded illegal liquor in his vehicle with fake bill/documents for illegal smuggling of the aforesaid liquor and he and his co-accused have committed crime U/s 61(1)a-4-2020 Ex-Act, 318(4), 338, 336(3), 340(2), 61(2) BNS, upon which a case FIR No. 79 dated 12.03.2025 U/s 61(1)-A-4-2020 Ex Act & 318(4), 336(3), 338, 340(2), 61(2) of BNS was registered at police station, Sadar Nuh, District-Nuh, Haryana and initial investigation of the present case

CRM-M-54065-2025

was conducted by SI Mukesh Kumar, CIA, Nuh.”

4. The Investigator claims to have complied with all the statutory requirements of the BNSS, 2023.

5. During the custodial interrogation, the main accused-Mula Ram disclosed that he used to transport illegal liquor at the instance of one Kamlesh and petitioner. During the interrogation, petitioner who took the vehicle loaded with liquor on superdari being owner, was named as accused in the FIR. The petitioner approached the Sessions Court for anticipatory bail, which was denied.

6. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. Counsel further submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

7. The State's counsel opposes bail and refers to the reply.

8. It would be appropriate to refer to the following portions of the reply, which read as follows:

“17. That it is also significant to mention here that the petitioner has moved an application for superdari of the aforesaid vehicle bearing registration No. GJ-10T-X-7277 being owner of the vehicle. A copy of the said application annexed as Annexure R-4 and the order dated 12.06.2025 vide which the vehicle in question was released on superdari by the Ld. Area Magistrate is annexed as Annexure R-5. The aforesaid facts clearly establish that the petitioner is the owner of the vehicle involved in the commission of crime.

18. That the petitioner has played vital role in the present case and he was actively involved in commission of crime. The accountant of the petitioner named kamlesh has deployed the vehicle no. GJ-10T-X-7277, which was owned by the petitioner was being used for transporting illegal wine, which was caught by the local police in present case. The petitioner has been rightly arraigned as accused in the present case being owner of the vehicle, who has as procured order of superdari of vehicle no. GJ-10T-X-7277, which was involved in the commission of crime.”

CRM-M-54065-2025

REASONING:

9. Perusal of the reply shows that petitioner was the owner of the truck in which liquor was being transported and recovered. Therefore, it is not necessary that he knows about the transportation of illegal wine and thus the benefit of doubt would go to the petitioner. Moreover, recovery of the vehicle and illegal liquor, has already been effected.

10. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹ Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.² Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.³

11. 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.

12. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations, evidence on record against the petitioner and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. 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.

13. 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.

14. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

¹ Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

² Supreme Court of India in Siddharam Satlingappa Mhetre v. State of Maharashtra, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

³ Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

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)	

15. The bail order is subject to the petitioner’s complying with the following terms.
16. 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.
17. 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.
18. Given the background of allegations against the petitioner, it becomes paramount to protect the illicit liquors detection squad, the law enforcement officers who raid the places to detect illicit distillation and its supply and enforce the compliance of the respective Excise laws, and their family members, as well as the members of society, 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 firearms. [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 uploading of this order on the official webpage of this Court 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 society; it would also restrain the accused from influencing the witnesses and repeating the offense.

CRM-M-54065-2025

19. 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."

20. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

21. In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

22. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

23. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State shall file an application to revoke this bail before the Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

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

25. It is clarified that this bail order shall not be considered as a blanket bail order in any other matter and is only limited to granting bail in the FIR mentioned above.

CRM-M-54065-2025

26. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant-Accused 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.

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

(ANOOP CHITKARA)
JUDGE

29.10.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.