

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56345-2024
Reserved on: 16.01.2025
Pronounced on: 22.01.2025

Gurpreet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Kumar, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
48	29.06.2024	Talwara, District Hoshiarpur	61/1/14 of Excise Act

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. Per paragraph 15 of the bail application and Para 7 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated/year	Offenses	Police Station
1	107	2019	420/465/467 IPC	Kartarpur, District Jalandhar
2	82	12.09.2022	379/411 IPC	Talwara, District Hoshiarpur
3	82	2017	379 IPC	Fatehpur, District Kangra (HP)

3. The facts and allegations are taken from the status report filed by the State. On 29-06-2024, based on chance recovery, the Police seized 828 bottles containing 621 liters of country-made liquor, with the inscription “For Sale in HP Only,” from a Jeep, which was forced to stop, but its driver fled. The Investigator claims to have complied with all the statutory requirements of the CrPC, 1973/ BNSS, 2023.

4. The investigation and the documents pointed towards the petitioner as the person who had the vehicle’s possession based on an agreement from the registered owner.

5. 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.

6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

"4. That during investigation of present FIR, Balwinder Singh presented a written agreement dated 18.09.2024 before investigating officer signed by petitioner, Balwinder Singh & attesting witnesses as Harpreet Singh & Anil Kumar, in which, it was stated that on 28.06.2024, petitioner had taken said Mahindra 806 Max Pickup for his personnel work and on 29.06.2024, huge quantity of liquor was recovered from said vehicle and petitioner is responsible for said recovery and not owner of said vehicle namely Balwinder Singh and even Balwinder Singh got recorded a statement U/s 161 Cr.PC to said effect. The true translated copy of Agreement dated 18.09.2024, as produced by Balwinder Singh is attached herewith as Annexure R-1/T."

8. 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.

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

10. 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. 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.

11. 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.

12. 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)	

13. The bail order is subject to the petitioner's complying with the following terms.

14. 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.

15. 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.

16. 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.

17. 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.”

18. 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 Trial Court/Sessions Court, which shall be at liberty to cancel this bail.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

22.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.