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**THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.64091 of 2024

Date of Decision: 14.01.2025

Gaurav**..... Petitioner****Versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present: Mr. Shamsher Singh Tomar, Advocate
for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

*********RAJESH BHARDWAJ, J.**

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.501, dated 18.08.2024, under Section 61 of Punjab Excise Act, 1914, registered at Police Station City Kundli, District Sonipat.

2. Succinctly the facts of the case are that on 18.08.2024, the police received a secret information to the effect that in New Friends Colony, Lane No.3, Kundli in front of Matrix Houseware Private Limited Company, a large quantity of illegal liquor belonging to Gaurav, resident of UP, Dhillu and Ajay, resident of Liwaspur has been stored and if the raid is conducted, then the illegal liquor can be recovered and the accused can also be arrested on the spot. On receiving the secret information, the



police contacted the Excise Inspector and a Raiding team was constituted. The Raiding team approached the disclosed place of the godown and on pointing out by the special informer, raided the godown. 04 boys were found present in a room built in the godown. They were arrested on the spot and on search of the godown, a heavy amount of liquor was recovered. The recovered liquor was sealed and FIR was registered. On registration of the FIR, the investigation commenced. During the investigation, on the disclosure statement made by the co-accused, complicity of the petitioner, namely, Gaurav was found. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Sonipat praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge, Sonipat dismissed the petition filed by the petitioner vide his order dated 02.12.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended before this Court that the petitioner has been roped in the present case on the basis of false and frivolous allegations. He has submitted that the FIR has been registered on the basis of secret information, however no independent witness was joined at the time of recovery. He has submitted that neither the godown nor the vehicles involved in the alleged recovery belong to the petitioner. He has submitted that there being no *prima facie* case made out against the petitioner in view of the provisions of Section



61 of the Excise Act, the petitioner deserves to be granted anticipatory bail.

4. Status report dated 10.01.2025 by way of an affidavit of Ajit Singh, HPS, Assistant Commissioner of Police, Murthal, District Sonipat on behalf of the respondent-State has been filed by learned State counsel today in the Court and the same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

5. *Per contra*, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He has drawn the attention of this Court to the status report filed and has submitted that specific information was received regarding the petitioner that he is involved in selling the illicit liquor, which was stored in godown. He has submitted that the police party along with the Excise Inspector conducted the raid at the disclosed place and heavy recovery of illicit liquor was made from the godown and the vehicles standing there. He submits that the accused, namely, Satish son of Raju, Pranshu son of Rampal, Rajan Lal son of Ramchander and Vansh son of Suresh were arrested and their disclosure statements were recorded. He submits that they were produced before the trial Court on 19.08.2024 and 03 days police remand was granted by the learned Court. He has submitted that during the remand of the co-accused, they made disclosure statements regarding the involvement of co-accused, Ajay, Sunil @ Dhillu, Naveen @ Choti, Shubham, Goli, Amit @ Mita and Gaurav i.e. the petitioner, who were involved in manufacturing and supplying the illicit liquor. The raids were



conducted to apprehend them, however they could not be arrested so far. He has submitted that the investigation is going on and further record was obtained from RTO Office, Sarangpur of the vehicles involved in the offence. The mobile phone of accused which were taken into possession, were sent to CFL, Panchkula for the data extraction and the report is awaited. He has submitted that all the efforts are being made to arrest all other accused including the petitioner, however they are still at large. He has submitted that the granting anticipatory bail to the petitioner would seriously effect the ongoing investigation and thus, he has submitted that the present petition being devoid of any merit deserves to be dismissed.

6. The Court has heard learned counsel for the parties and perused the record with their able assistance.

7. It is apparent that FIR in the present case has been registered on the basis of secret information received specifically qua the petitioner. On conducting the raid on the godown, a heavy amount of illicit liquor was recovered and the vehicles were also found to be involved in transport of the same. Some of the accused could be arrested by the police at the place of occurrence. Their police remand was granted by the learned trial Court and complicity of the petitioner along with other co-accused has also been *prima facie* established. The investigation is at threshold. The allegations made in the FIR are serious and grave in nature. All the efforts are being made by the Investigating Agencies for arresting the petitioner and remaining co-accused, however they could not be arrested so far.



8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

- 1. When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
- 2. When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
 - (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
 - (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
 - (iii) a condition that the person shall not leave India without the previous permission of the Court;*
 - (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”*

9. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-



“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival*



of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

10. The Hon'ble Supreme Court in ***State Vs. Anil Sharma, (1997) 7SCC 187***, held as under:-

“6.We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”



11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Needless to say, the investigation is at threshold and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

14.01.2025
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No