



CRM-M-49656-2024 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-49656-2024 (O&M)****Reserved on : 10.02.2026****Pronounced on : 12.02.2026**

Virender @Birender Singh

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Akash Vashisth, Advocate and
Mr. Akinchan Aggarwal, Advocate for the petitioner.

Ms. Shaveta Sanghi, DAG Haryana.

SURYA PARTAP SINGH, J.

1. This petition, under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed for quashing of FIR No.143 dated 23.04.2022, under Section 72-C(b) of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020), Police Station Sadar Mahendergarh, District Mahendergarh.

2. In nut-shell, the facts emerging from the record are that the FIR of the case was lodged in abovementioned Police Station on a report of Sub-Inspector Rajender Kumar. It was reported by the abovenamed police officer that on that day when he along with SPO Pawan No.104 and Constable Anil Kumar No.767 was on patrolling duty in official vehicle, he spotted two persons, who were consuming liquor with the help of half bottle at a public place. According to abovenamed police officer, the abovesaid persons when



spotted the police party, threw the bottle on the road, and broke the same. It was further reported that by consuming liquor at public place, they had committed an offence under Section 72(C)(b) of the Haryana Excise Act 2020 and therefore, both the abovesaid persons were over-powered.

3. It is the case of the prosecution that in view of abovementioned report, formal FIR of this case was lodged and the investigation taken up. According to prosecution, during the course of investigation the petitioner was formally arrested and thereafter, further investigation was initiated.

4. Heard.

5. It has been contended on behalf of petitioner that in the present case, the only allegation against the petitioner is that he along with co-accused was consuming liquor at a public place. According to learned counsel for the petitioner, the abovementioned act has been described as an offence under Section 72(C)(b) and that as per Section 72C(c)(2) the sentence prescribed for the abovementioned offence is imprisonment up to three months and fine up to Rs.10,000/-.

6. It has been further contended by learned counsel for the petitioner that the abovementioned offence is a non-cognizable offence and, therefore, firstly without warrant the police officer was not entitled to arrest the petitioner and secondly, without permission of the Court, investigation in this case could not be undertaken. While claiming that arrest of the petitioner in the present case is illegal and that filing of FIR is barred, it has been



submitted by learned counsel for the petitioner that the FIR in question being an abuse of process of law deserves to be quashed.

7. The learned State Counsel has controverted the abovementioned argument. While referring to the reply filed by the State, it has been contended by learned State Counsel that the present petition has been filed on false grounds and that whatever the grounds have been taken in the present petition the same should be taken before the learned trial Court at the time of framing of charge.

8. The record has been perused carefully.

9. A perusal of record shows that in the present case, the only allegation against the petitioner is that he along with his co-accused was consuming liquor at a public place. The abovementioned act of the petitioner & his co-accused, it amounts to an offence under Section 72(C)(b) of the Punjab Excise (Haryana Amendment) Act, 2020. The abovementioned Section defines that 'whoever, in contravention of this Act or the rules, notification or order made thereunder, consumes liquor in public place and creates nuisance shall be punished with imprisonment for a term which may extend to three months and fine which may extend to Rs.10,000/-'.

10. With regard to controversy involved in this case, the provisions of Section 72 of abovementioned Act are also relevant. It has been prescribed under Section 72 of abovementioned Act that all offences under this Act, punishable with imprisonment up to 02 years or more, shall be non-



bailable and cognizable and the provisions of Criminal Procedure Code with respect to non-bailable and cognizable offence shall apply to those offences.

11. If the abovementioned provisions contained in the Punjab Excise (Haryana Amendment) Act, 2020 are taken into consideration, it transpires that the offence of consuming liquor and creating nuisance at public place which is punishable with imprisonment up to three months only, is not governed by Section 72 of the of the abovementioned Act. The abovementioned analysis leads to the conclusion that the offence involved in the instant case is bailable and non-cognizable.

12. In the present case another important aspect to be taken into consideration is that under Section 72(C)(c)(2) to constitute an offence there are two components which are necessary:-

- i. Consuming liquor in a public place, and
- ii. Creating nuisance.

13. In the present case, if the facts as depicted in the FIR are taken into consideration, it transpires that amongst the abovementioned two essential ingredients, the second ingredient is missing, as there is no reference in the FIR that the petitioner and his co-accused were creating any kind of nuisance at a public place.

14. In the case of 'State of Haryana Vs. Ch. Bhajan Lal', 1991(1) RCR 383, the Hon'ble Supreme Court of India after reviewing large number of cases on the question of quashing of FIR has propounded that the FIR can be quashed in the following circumstances:-



- a) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- b) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- c) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- d) Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- e) Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- f) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.



g) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

15. Taking into consideration the abovementioned factual matrix of the case and the observations made in the foregoing paragraphs, it transpires that firstly, the ingredients meant for the commission of offence under Section 72C(c)(2) are not made out in the present case and secondly, for the commission of abovementioned offence filing of FIR and investigation taken by the police without permission of the Court is barred.

16. Hence, it is hereby observed that the filing of FIR in the present case is nothing, but a sheer abuse of process of law and the same deserves to be quashed.

17. As a sequel to abovementioned observations, the present petition is hereby *allowed* and the FIR in question is hereby quashed.

18. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

12.02.2026
Vinod

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No