

**IN THE COURT OF ATUL KASANA,
ADDITIONAL SESSIONS JUDGE, MOGA.
(UID No. PB0085).**

CNR No.PBMO010046602022

CIS No.BA 1803 of 2022.

Decided on: 17.8.2022.

State

Versus

Som Nath alias Sunny son of Mangal Singh resident of Sardar
Nagar, Moga.

.... Applicant/Accused

FIR No. 89 dated 7.8.2022.

U/S: 61/1/14 Excise Act.

P.S. Mehna.

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Bail application under Section 438  
Cr.PC.

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Present :     Shri GS Jassal, Advocate, for applicant/accused  
                   Shri Sahib Singh, Learned Addl. P.P. for State

**O R D E R**

1.             This order of mine shall dispose of bail application under Section 438 Cr.PC filed by the applicant/accused in the above noted case.
2.             Notice of the bail application was issued to the State and have perused the record.
3.             Learned counsel for the applicant submits that applicant-accused has been falsely implicated in this case and that present case has been registered on the basis of secret information. He further submits that applicant-accused was not apprehended at the spot and that no recovery is to be effected from him and that custodial interrogation of the accused-applicant is not required as he has already joined the investigation. On these submissions, he has prayed for grant of bail to the applicant.

4. On the other hand, learned Addl. P.P for State opposed the bail application and prayed for dismissal of the same.

5. I have considered the submissions of Learned counsel for the applicant as well as learned PP for State and have perused the record.

6. The present case has been registered against the applicant/accused at the instance of HC Sikander Singh. It is in accusations that HC Sikander Singh alongwith other police officials was present at Bughipura Chowk where he received secret information that Som Nath @ Sunny son of Mangal Singh present applicant-accused was habitual of selling country made liquor and has kept concealed the country made liquor and English wine on the backside of Speedwash and OP car Service and used to sell the same to his customers. If a raid is conducted at disclosed place, then huge quantity of country made liquor/English wine can be recovered. Believing the information trustworthy, he sent the ruqa on the basis of which the present FIR was registered. Upon raid at the disclosed place, 180 bottles of Country made whisky make 111 ACE was recovered.

7. The allegations against the accused-applicant are that he used to sell the country made liquor and English wine and on the day of recovery, secret information was received against him and upon raid at the disclosed place, above said recovery of 180 bottles of country made whisky make 111 ACE was effected. As per the version of the prosecution, the accused-applicant had not been arrested in this case. Apparently, the accused/applicant was not apprehended at the spot. The recovery already stands effected. As per the separately recorded statement of HC Sikander Singh, accused/applicant has since joined investigation and that his custodial interrogation is not required and no further recovery has

been effected in this case. It is yet debatable if any the accused/applicant was involved in commission of any such offence or not. Keeping in view the entire facts and circumstances, custodial interrogation of the accused-applicant is not required. Thus, without commenting on the merits of the case and keeping in view the entire facts, interim bail granted to accused/applicant vide order dated 9.8.2022 is hereby confirmed and made absolute subject to following conditions:

- (i) The applicant shall join the investigation as and when asked by the Investigating Officer.
- (ii) The applicant shall not tamper with the prosecution evidence.
- (iii) The applicant shall not leave the country without prior permission of the court.

8. The anticipatory bail application accordingly stands allowed. Intimation be sent to SHO of concerned police station. Police record be returned forthwith, while file of this court be consigned to Record room.

**Date of order: 17.08.2022**  
*(Sushil Bajaj, Stenographer G-II)*

**(Atul Kasana),**  
**Addl. Sessions Judge,**  
**Moga. (UID No.PB-0085)**