

PBGDA10023712024



Presented on : 01-04-2024
Registered on : 01-04-2024
Decided on : 06-04-2024
Duration : 0 years, 0 months, 5 days

**IN THE COURT OF
Judicial Magistrate - Ist Class
AT Batala, Gurdaspur
(Presided Over by Sh.Manpreet Sohi)**

BA/233/2024

STATE

Versus

Kashmir Masih son of Barkat Masih R/o village Khokhar, Tehsil Batala,
District Gurdaspur.

..... Applicant/accused

FIR No. 07 dated 24.03.2024
Under Section 61(1)(a) of Punjab Excise Act, 1914.
P.S. Ghanie Ke Banger.

Ist bail application for bail under Section 437 Cr. P.C.

Present : Sh. M.S.Randhawa, Advocate counsel for applicant.
Sh. Ravinder Singh Gill, Ld. A.P.P for the State.

ORDER.

1. Vide this order, I shall dispose of first bail application filed on behalf of applicant/accused Kashmir Masih under Section 437 Cr.P.C for grant of bail in FIR No. 07 Dated 24.03.2024 Under Section 61(1)(a) of Punjab Excise Act, 1914 registered at P.S. Ghanie Ke Banger.

2. Notice of the application was given to State and record of the case was produced. As per the report of the Ahlmad and statement of the Investigating Officer, the present bail application is the first bail application

Manpreet Sohi, PCS
JMIC/Batala. 06.04.2024

moved by the present accused in this case.

3. Brief facts of the prosecution case are that the present FIR was registered against applicant/accused alleging that on 24.03.2024, when the police party on patrolling duty in search of bad elements going towards village Ghanie Ke Banger to village Qila Desa Singh, Khokhar, etc., police party reached near Church, village Khokhar, one person was seen coming on foot carrying a jute bag apparently heavy weight on his shoulder. On seeing the police party, he tried to turn back but he was apprehended by the police party. Upon inquiry, he disclosed his identity as Kashmir Masih son of Barkat Masih R/o village Khokhar, Tehsil Batala, District Gurdaspur. Upon checking the kann plastic, 20 bottles of illicit liquor were recovered. Accused arrested on the spot.

4. I have heard learned counsel for the applicant/accused, learned APP for the State and have carefully perused the record of the case.

5. Learned counsel for applicant/accused argued that applicant had been falsely implicated in the present case. The applicant/accused is totally innocent. He has not committed any offence but falsely roped in this case. The applicant/accused was arrested on 24.03.2024 and till today he is in judicial custody. He further argued that there is no evidence with the prosecuting agency to connect the accused/applicant with the alleged offences and story of the prosecution is concocted by the complainant with an ulterior motive to harass and humiliate the applicant and in order to succumb his illegal demands. The FIR has been lodged after due consideration and deliberation and political motivation. Thereby, he prayed for grant of bail to the applicant/accused.

6. Upon notice, learned APP for the State, appeared and opposed the bail application on the ground that accused has committed serious offence. In case, applicant/accused is granted bail, it would give a wrong signal to the society and he may try to commit similar other offences. Thereby, he prayed for dismissal of bail application.

7. I have considered respective submissions made by learned counsel for accused/applicant, learned A.P.P for the State and have carefully

gone through the file of the case with their able assistance.

8. After hearing rival contentions of both the parties, the Court is of the opinion that applicant/accused deserves to be granted bail. It is settled principle of law that bail is the rule and jail is an exception. Presentation of challan in the Court and trial thereof will take sufficient long time. As per the police record, except the present FIR, there is no other FIR has been registered against the accused, meaning thereby the accused/applicant has no criminal antecedents. Moreover, the prosecution has not placed on record any document or material which could show the likelihood of the accused fleeing from justice or any apprehension of tempering with evidence or influencing witnesses related to present case. No useful purpose would be served by keeping the applicant in custody for an indefinite period. Applicant is in custody since **24.03.2024**. Moreover, recovery has already been effected. Guilt or innocence of the applicant/accused will be determined during trial which will take a long time as the trial is yet to commence. Keeping in mind the circumstances of the case, without commenting upon merits of the case, I hereby allow this bail application and accused/applicant is ordered to be released on bail on his furnishing bail bonds in the sum of Rs. 20,000/- with one surety in the like amount, subject to the following conditions :-

1. That accused shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected;

2. That the accused 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 fact to the Court or to any police officer or tamper with the evidence;

9. However, observations made above are only for disposal of this bail application and would have no bearing on merits of the case.

10. Bail/surety bonds furnished, which are accepted and attested. Release order be issued as per law.

State Vs Kashmir Masih
CIS No. BA-233-2024

UID No. PB0656

11. Record of the case be returned and file of bail application be attached with the remand papers.

Pronounced
Dt. 06.04.2024

(Manpreet Sohi), PCS
Judicial Magistrate Ist Class
Batala. UID No.PB0656

Ikbal Singh, Stenographer-II

Manpreet Sohi, PCS
JMJC/Batala. 06.04.2024