

IN THE COURT OF RAMESH KUMARI, (UID No.PB0039)
SESSIONS JUDGE (DUTY), GURDASPUR

RBT Bail Application No. 145 of 01.06.2020
Date of Decision: 01.06.2020

Salamat Masih son of Billu Masih r/o Village Lehal, P.S. Dhariwal
Tehsil & District Gurdaspur.

....Applicant/accused

versus

State of Punjab

...Respondent

FIR No. 105 dated 25.05.2020
U/s 61/1/14 of Punjab Excise Act
P.S. Dhariwal

First Application for Bail U/s 438 Cr.P.C.

Present: Shri Paul Sandhu, Advocate, learned counsel for
applicant/accused through mobile phone.
Shri Kiran Kumar, learned Additional Public Prosecutor for
the State.

ORDER:

This order of mine shall decide the first bail application
under Section 438 of Criminal Procedure Code (hereinafter referred to
as Cr.P.C.) filed by applicant/accused Salamat Masih, in case FIR No.
105 dated 25.05.2020, under Section 61-1-14 of Punjab Excise Act,
1914, P.S. Dhariwal.

2. Notice of bail application was issued to the State and
police record was requisitioned.

3. The facts in brief, for disposal of present bail application
are that on 25.05.2020, ASI Harbhajan Chand alongwith other police

officials was present at T-Point Grain Market, Dhariwal, where an informer gave a secret information that Salamat Masih son of Billu Masih, resident of village Lehal is indulged in distilling and selling illicit liquor. If raid is conducted at his house, recovery of lahan or illicit liquor could be effected. On this, ASI Harbhajan Chand along with other police officials conducted raid at the house of Salamat Masih son of Billu Masih, where one person carrying a plastic can in his hand, was seen going towards haveli outside the house and on seeing the police party, he succeeded to flee from the spot after throwing the plastic can at the spot. On checking the can plastic, which the accused left on the spot, was found containing illicit liquor. Out of the recovered illicit liquor, one sample of 180 ml was drawn and remaining on measurement came to be 39 bottles each measuring 750/750 ml each and one bottle of 570 ml.

4. Learned counsel for the applicant/accused argued that the FIR has been registered against unknown person. The applicant/accused is totally innocent and has not committed any offence. The applicant/accused is a labourer and earning his livelihood and livelihood of his dependent family members by doing labour work. The entire story set up by the prosecution is totally false and concocted one. Nothing has been recovered from the applicant/accused. So arrest and detention of the applicant/accused will not serve any purpose rather it will cause unnecessary harassment and humiliation to the

applicant/accused. The applicant/accused will join investigation as and when required or ordered and as such prayer has been made to grant pre-arrest bail to the applicant/accused.

5. These arguments have been refuted by Shri Kiran Kumar, learned Additional Public Prosecutor by contending that heavy quantity of illicit liquor has been recovered from possession of applicant accused and keeping in view the nature of allegations, the applicant/accused should not be granted the concession of pre-arrest bail.

6. I have heard learned counsel for the applicant/accused, learned Additional Public Prosecutor for the State and also perused the police record.

7. The alleged recovery of illicit liquor has already been effected. The question as to whether the applicant/accused was in conscious possession of the recovered illicit liquor, shall be decided on the basis of evidence to be adduced during trial of the case. It is also not the case of the prosecution that the custodial interrogation of the applicant/accused is required in order to effect more recovery. Therefore, without commenting upon merits of the case, the application for pre-arrest bail of the applicant/accused is allowed and the applicant/accused is directed to join the investigation **within 10** days from today with the investigating Officer/SHO of the concerned police station and he will be released on bail after joining the

investigation to the satisfaction of the Investigating Officer/SHO subject to the conditions:

- i) That the applicant shall make himself available for interrogation before the SHO/Investigating officer, as and when required; and
- (ii) That the applicant 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/her from disclosing such facts to the investigating officer/any police officer or to the Court.

If the applicant/accused failed to join the investigation within 10 days from today, this order shall cease to operate. A copy of this order be sent to the concerned police station for information. Police record be returned. Bail application file be consigned to the record room.

Pronounced:
01.06.2020

(*Vinay*)

(Ramesh Kumari)
UID No.PB0039
Sessions Judge,
Gurdaspur (Duty).