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2025:PHHC:076212



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

**CRM-M-32629-2025
DECIDED ON: 17.06.2025**

JASPAL ALIAS GULAR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Satnam Singh Gill, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS for grant of anticipatory bail to the petitioner in case FIR No.63 dated 24.5.2025, under Section 61 of Punjab Excise Act, 1914, Police Station Kathgarh, District Shaheed Bhagat Singh Nagar.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“SHO, Police Station Kathgarh, Jai Hind! Today, I, ASI along with ASI Harjinder Singh 174/ SBSN, PHG Gurmukh Singh No.26746 was travelling in Govt. vehicle No.PB-65-BG-6342 mark Scorpio whose driver S/CT Inderjit Singh No.679 / SBSN along laptop, printer, investigating bag was patrolling and checking of suspected persons were present at T-Point village Jagatwal at area of village Kathgarh. Then Ex. Insp. Sunil Bhardwaj circle Balachaur along team members ASI Manjit Singh No.2/3035, Ex. Team Nawanshahr, HC Sada

Singh No.6/455, Ex. Team Nawanshahr & CT Hani Bains No.3/491 Ex. Team Nawanshahr came with them discussion of suspected person were being done that secret informant came and gave information that Jaspal @ Gular son of Durga Ram r/o village Bagowal, P.S. Kathgarh, Distt. SBS deals in illegal selling of liquor. Today also he at Haveli/animal shed near his house by keeping huge quantity of liquor for sale in Hayrock (Khurli) is waiting for customer. If now raid is conducted then Jaspal @ Gular can be apprehended along with illegal liquor. On information of the secret informant I along with other officials I along Ex. Insp. Sunil Bhardwaj circle Balachaur along his team reached at village Bagowalat Haveli/animal shed of Jaspal @ Gular son of Durga Ram at about 7.40 AM Jaspal @ Gular was seen sitting near the HAYRACK. On seeing the police party he ran towards the open place. He was followed by ASI Manjit Singh No.2/3035 Ex. Team Nawanshahr and HC Sada Singh No.6/455 Ex. Team Nawanshahr. After some time they came and told that afore mentioned persons by taking the benefit of darkness has fled from the spot. Then I, ASI along other official & along Ex. Insp. Sunil Bhardwaj circle Balachaur reached near HAYRACK where boxes of liquor were recovered before conducting investigation. I, ASI tried to join witness from public. But every person gave excuse and no one was willing to joint police party. Then I, ASI along with other police officials and Ex. Insp. Sunil Bhardhwaj circle Balachaur did videography via Shabeblan APP and counted the liquor recovered boxes of liquor which came to be 23 boxes of liquor. Out of which 21 boxes of liquor mark Punjab Club King Whisky were recovered and 2 boxes liquor mark Santra Desi HP for sale were recovered. From the recovered boxes of liquor in 9 boxes each had 12 bottles i.e. total 108 bottles mark Punjab Club King Whisky on whom batch No.B42 is written. From the recovered liquor boxes, in 12 boxes each had 12 bottles i.e. total 144 bottles mark Punjab Club King Whisky on whom Batch No.B22 is written. From

recovered liquor boxes 1 box had 12 bottle mark Santra Desi for sale HP on whom batch No.916 is written. Then 108 bottles whose batch No.is B42. One bottle of liquor mark Club King Whiskey was taken out as sample and sample parcel prepared. Then from 144 bottle having batch No.B22, one bottle having mark Club King Whisky sample was taken out & sample parcel prepared. Then from 12 bottle whose batch No. is 915, one bottle mark Santra Desi for sale in HP as sample was taken out and sample parcel prepared. Then 12 bottles with batch No.916, out of which 1 bottle having mark Santra Desi for sale in HP as sample was taken out and sample parcel prepared. The remaining 107 liquor bottles having batch No.B42 mark Punjab Club King Whisky was put in plastic bag and parcel prepared. Then 11 liquor bottles of batch No.915SantraDesi for sale HP were put in plastic bag and parcel prepared. Sample of 4 bottles and lose property of 4 parcel plastic bag were stamped with HK & sealed. Sample seal was prepared separately Form No.29 was computer. Seal after use was handed over to ASI Harjinder Singh 174/SBSN. The recovered liquor in 4 parcel plastic bag and sample 4 liquor bottles sealed with MK along sample seal and form No.29 were taken as evidence in police possession through recovery memo. The empty boxes were put in a separate plastic bag. Jaspal @ Gular son of Durga Das, resident of village Bagowal, District Shaheed Bhagat Singh Nagar by keeping 23 boxes of liquor in his illegal possession has committed offence u/s 61-1-14 Excise Act. Ruqa is written for registration of the case against @ Gular son of Durga Das, resident of village Bagowal, District Shaheed Bhagat Singh Nagar and is sent through PHG Gurmukh Singh No.26746 to police station. Case to be registered & case no. to be informed. Special reports to be prepared & sent to Ilaqa Magistrate Sahib & official & control room to be informed. I, ASI along other officials & Ex. Insp. Sunil Bhardwaj circle Balachaur along his team are busy at the spot in investigation.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as nothing has been recovered from his conscious possession. He further contends that the petitioner has been named in the FIR solely on the ground that he had previously been involved in six other cases of a similar nature. It has been further contended that as per the prosecution story, the raid was conducted in the night when it was dark, raising doubts as to how the police officials were able to identify the person who fled away from the spot was the petitioner. The petitioner is ready and willing to join the investigation and cooperate with the investigation officer concerned, as has been undertaken before this Court by learned counsel for the petitioner.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Sandeep Singh, AAG, Punjab accepts notice on behalf of the respondent-State, who opposes the grant of anticipatory bail to the petitioner on the ground that the petitioner is a habitual offender as he is involved in multiple cases of similar nature.

4. **Analysis**

Be that as it may, considering the fact that the petitioner was not present at the spot since as per the prosecution story, the petitioner ran away from the spot and at that time, it was quite dark and there was no light where the alleged recovery was effected and in that eventuality, it is hard to believe that how the police team could identify the present petitioner to be the same

person who allegedly fled away from the spot and the fact that the prosecution has failed to present any direct evidence against the petitioner to implicate him in the present FIR. Also considering the undertaking given before this Court by learned counsel for the petitioner that the petitioner is ready and willing to join the investigation and cooperate with the investigation officer concerned.

Moreover, the custodial interrogation of the petitioner is not required at this stage as the alleged recovery was already effected.

As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as "*Baljinder Singh alias Rock vs. State of Punjab*" decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of concession of bail.

5. **Relief**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of

personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘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.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

17.06.2025

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No