

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

CRM-M-30704-2015 (O&M)

Date of Decision: September 23, 2015

Mukh Ram @ Kalu and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Naresh Jain, Advocate
for the petitioners.

Mr.Pawan Gaur, DAG, Haryana.

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1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J.

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioners, Mukh Ram @ Kalu, and Sukhwinder Singh @ Midha, who have been booked for having committed the offences punishable under Sections 420 and 468, IPC, Sections 61, 63 and 63-A of the Punjab Excise Act, 1914, and Section 65 of the Copyright Act, in a case arising out of FIR No.246, dated 22.07.2015, registered at Police Station, Sadar, Dabwali, District Sirsa.

Learned counsel contends that even if the whole case of the prosecution is taken at its face value then also the essential constituents of the offences, for which the petitioners have been booked, are not attracted against the petitioners; the conscious possession of the contraband by the petitioners is absolutely lacking in the present case since the petitioners could not be arrested from the spot; the ownership of the house from where the alleged contraband was recovered does not belong to the petitioners and that the disclosure of the names of the petitioners by the secret informer would not be a legal evidence to connect the petitioners with the offences alleged to have been committed by them. He further contends that the petitioners were taken into custody on 06.08.2015 and thereafter sent to the judicial custody which would reveal that investigation qua the petitioners is complete.

Learned counsel for the State has opposed the grant of bail to the petitioners on the premise that huge quantity of spirit and the packing material were recovered from the spot, therefore, the bail petition be dismissed.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

It is conceded position that the petitioners were not arrested from the spot; it has not been substantiated on record that the building from which the contraband had been recovered was in possession of the petitioners; the secret information received by the police in which the names of the petitioners were disclosed would not by itself be sufficient to connect the petitioners with the offences for which they have been booked and that the recovery of the contraband from the conscious possession of the petitioners would be a moot point during the course of investigation/trial. Therefore, the present petition is accepted. Petitioners- Mukh Ram @ Kalu, son of Shri Devi Lal, resident of Dhani Sikhwali Chautala, District Sirsa, and Sukhwinder Singh @ Midha, son of Shri Bansi Lal, resident of village Chautala, District Sirsa, are ordered to be released on bail during pendency of the investigation/trial of the present case subject to their furnishing bonds to the satisfaction of the learned Area Judicial Magistrate/Duty Magistrate, Sirsa.

The police file be returned in the same state to the learned counsel for the State against a proper receipt.

September 23, 2015
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(NARESH KUMAR SANGHI)
JUDGE