

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

**CRM-M No.13759 of 2016 (O&M)
Date of Decision: 04.05.2016**

Jaiveer

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Manoj Bajaj, Advocate assisted by
Mr. Yogesh Saini, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana
for the respondent/State assisted by ASI Jaswinder Singh.

JASWANT SINGH, J. (Oral)

Present petition is for grant of regular bail under Section 439 Cr.P.C. on behalf of the petitioner/accused-Jaiveer in case FIR No.331 dated 16.07.2015, under Sections 365 and 395 of the Indian Penal Code, registered with Police Station Shahabad, District Kurukshetra.

The occurrence on the intervening night of 15-16.07.2015 pertains to waylaying near Shahbad on the G.T. Road and forcibly overpowering a truck No.HR-46F-8128, carrying 1400 liquor boxes for sale in Arunachal Pradesh, by the nine accused persons, including the petitioner/accused.

The driver-Balwinder Singh of the aforesaid truck was let off in the night itself and the FIR was lodged by the owner-Surender Kumar of the aforesaid truck at 8 in the morning of 16.07.2015.

The aforesaid truck containing remaining 1360 boxes of liquor was recovered on the same day i.e. 16.07.2015 lying parked/abandoned at a BPCL Petrol Pump at Village Kheda.

The case of the prosecution is based on the confessional statements of the co-accused/non-applicants Dharminder Singh @ Kala, Devinder Singh @ Pola, Amit and Vikas, who were arrested on 14.08.2015. It is revealed that the target truck was followed by co-accused Dharminder Singh and Lakha in a Ertiga Car from the place of loading at Chandigarh till its interception.

Another truck bearing No.HR-47B-3445 was allegedly arranged for transporting the 1400 liquor boxes from the target truck. The arranged truck by the accused party was concededly never put to use and was recovered lying parked near a Dhaba on the confessional statement of co-accused Dharminder Singh.

The petitioner/accused-Jaiveer and co-accused Lakshman, Devinder, Vikas and Ashok are alleged to be travelling in a Tavera vehicle bearing No.HR-37B-6336, which is alleged to have intercepted the target truck.

The role attributed to the petitioner/accused is of one of the occupants of the Tavera vehicle and the case of the prosecution is founded against him solely on the basis of the recovery of one liquor box, pursuant to a similar confessional statement of the petitioner on the date of his arrest on 21.09.2015.

It is contended that only 40 boxes were found missing from the intercepted 1400 liquor boxes, inspite of the alleged availability of arranged truck for reloading and transportation, therefore, creating a doubt in the case of the prosecution. It is next contended that only incriminating material collected against the petitioner/accused is that of recovery of one box of liquor pursuant to his disclosure statement, which itself is not sufficient to show his complicity in the offence as it is nowhere stated that it is of the same lot/stock as was being transported in the target truck. That apart, it is contended that the petitioner is in custody since last 7 ½ months and after completion of the investigation, challan stands presented and the charges framed. The evidence

of 17 cited prosecution witnesses is yet to commence.

The petitioner is stated to be neither previous convict nor involved in any other criminal activity.

Learned State Counsel, assisted by ASI Jaswinder Singh, does not refute the fact qua the custody period, stage of the trial, as also non-involvement of the petitioner in any other case.

Without commenting on the merits of the case, keeping in view the custody period and the fact that trial is not likely to be concluded in near future, this Court finds that petitioner/accused deserves the concession of regular bail and as such he is ordered to be released on bail to the satisfaction of CJM/Duty Magistrate concerned.

Disposed of.

May 04, 2016

Gagan

**(JASWANT SINGH)
JUDGE**