

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

CRM-M-25349-2017

Date of decision: 13.9.2017

Sunil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Abhilaksh Grover, Advocate for the petitioner

Ms.Mahima Yashpal, AAG, Haryana
assisted by HC Vinod Kumar

JITENDRA CHAUHAN, J.

The present petition under Section 439 of the Code of Criminal Procedure has been filed for grant of bail to the petitioner in case First Information Report No.498 dated 29.6.2016 registered under Sections 272, 273, 420, 180 of the Indian Penal Code and Section 61 of the Excise Act at Police Station Civil Lines, Karnal.

Learned counsel for the petitioner submits that the petitioner has been involved in the present case only on the basis of the disclosure statement of co-accused Amit. However, no recovery had been effected from him and he has been falsely implicated. Co-accused Dheeraj, Amit, Anil and Azad Singh @ Alok have already been released on regular bail by this Court. The petitioner is in custody since 3.9.2016. The

challan stands presented and nothing is to recovered from the petitioner. Two months have elapsed, but the trial has not been concluded. Learned counsel refers to Section 437(6) of the Cr.P.C. to contend that an indefeasible right has accrued in favour of the petitioner to be released on bail.

On the other hand, the learned State counsel submits that the prosecution will make sincere efforts to conclude the trial.

Heard.

Earlier the regular bail petition filed by the petitioner was dismissed on merit on 20.1.2017. The learned counsel for the petitioner has not been able to point out any changed circumstance in favour of the petitioner. A heavy recovery of 200 litres of spurious chemical (country made liquor) alongwith one cane containing 50 litres and 25 boxes of filled bottles and 42 other boxes was effected from House No.1552, Sector 7, Urban Estate, Karnal. It is the case of the prosecution that the petitioner alongwith other co-accused had been manufacturing and selling spurious liquor after affixing the logo of Haryana Govt. without approval. The petitioner is the main accused. The case of the petitioner is not at par with other co-accused.

Both the Courts below have rightly declined the relief under Section 437(6) Cr.P.C. to the petitioner. Section 437(6) Cr.P.C. reads as under:-

“437. When bail may be taken in case of non-bailable offence.

(1) to (5) xx xx xx

(6) If, any case triable by a Magistrate, the trial of a person accused of any non bailable offence is not Concluded within a period of sixty days from the first date fixed for - taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) xx xx xx”

A perusal of the aforesaid provision reveals that the petitioner is not having an indefeasible right to be released on bail, rather, the same is a qualified right subject to the satisfaction of the Magistrate concerned. Learned Courts below have recorded valid reasons for declining bail to the petitioner. Coercive methods were rightly adopted by the learned Magistrate for securing the presence of the witnesses and no fault can be found with the approach of the learned Courts below while declining bail to the petitioner under Section 437(6) Cr.P.C.

Accordingly, the present petition is dismissed.

However, anything said herein above shall not be construed as an expression of opinion on the merits of the case.

Keeping in view the custody period and the fact that the co-

accused have already been released on bail, the trial Court is directed to conclude the trial Court within six months.

13.9.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No