

CRM-M-7454-2019 (O&M)

Date of decision:21.02.2019

Sunil Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Anurag Singh Tagra, Advocate, for the petitioner.

Mr. Munish Dev Sharma, AAG, Haryana.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of bail pending trial in case FIR No.262 dated 30.09.2018 under Sections 420, 407 of IPC, registered at Police Station Sadar, Yamuna Nagar.

Learned counsel for the petitioner contends that the case against the petitioner is concocted. The present case has been created by the transporter as a skin saving tactics because another FIR was registered regarding this very consignment at Mathura. Complainant was called by Mathura Police in connection with FIR No. 348 of 2018 registered at Police Station Shergarh, District Mathura regarding liquor found in the truck, which was being driven by the petitioner. It is further submitted by the counsel for the petitioner that the petitioner is not even the regular employee of the transport Company. The petitioner was, statel, given consignment of 590 pieces of ply wood boards. However, the petitioner had not checked the material loaded in the truck. He was only asked to drive the truck to carry the consignment to Bodh Goya. On being checked by Mathura Police, it was found that the truck was having liquor boxes concealed under ply wood boards. In that situation, it is either consignor or the transporter who

would be responsible for consigning the consignment of illicit liquor. Although, the petitioner was also involved in the above said FIR at Mathura, however, the petitioner has already been released on bail pending trial. So far as the consignment of the ply wood boards is concerned, the consignor has not even raised a dispute regarding the consignment not reaching the place of consignee. It is shown that he is well aware that he had loaded the liquor and not the consignment of ply wood boards. It is further contended that the petitioner is in custody since 25.01.2018. No recovery has been effected from the petitioner. Challan has already been filed. The petitioner is not required for any investigation purposes. Hence, the petitioner deserves to be released on bail.

On the other hand, learned State counsel, being instructed by ASI Jaswinder Singh, submits that the petitioner is actively involved in transporting the illicit liquor on asking of owner of the truck. It is further submitted that for carrying the present consignment, the petitioner had charged Rs.50,000/- from the owner of the truck, who had lent his truck to the transporter. However, it is not disputed that there is no recovery of any misappropriated ply wood boards or the sale proceedings thereof from the petitioner. It is also not disputed that the consignor has not raised any dispute regarding his consignment of ply wood boards not reaching the consignee.

In view of the above submissions made by learned counsel for the petitioner, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

21.02.2019

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