

CRM-M-26264-2020

Date of Decision: 11.09.2020

Jatinderpal Singh and another

.....Petitioners

Vs.

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Nirmaljeet Singh Sidhu, Advocate,
for the petitioners.

Mr. Pawan Sharda, Sr. D.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C., seeking 'regular bail' for the petitioners in case FIR no. 50, dated 22.04.2020, registered at Police Station Sadar, Khanna, for the alleged commission of offences punishable under Sections 420, 465, 468, 471 and 269 of the IPC and Section 51 of the Disaster Management Act, 2005, as also Section 61 of the Punjab Excise Act, 1914.

Learned counsel for the petitioners submits that the petitioners in the present petition are on the same footing as the petitioner in CRM-M-21536 of 2020, i.e. Jasvir Singh alias Jassi, who along with other co-accused, i.e. Jatinder Kumar (petitioner in CRM-M-15256-2020), was admitted to bail by this court, vide an order passed on 26.08.2020 in CRM-M-21536-2020.

The said order is reproduced hereinunder:-

“All cases listed today have been taken up

for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By these petitions, the petitioners seek to be admitted to bail, upon FIR no.50, dated 22.04.2020, having been registered at Police Station Sadar Khanna, District Khanna (Ludhiana), alleging therein the commission of offences punishable under Section 61 of the Punjab Excise Act, 1914, as also under Sections 420, 465, 468, 471 and 269 of the IPC and Section 51 of the Disaster Management Act, 2005.

Though in the case of the petitioner in CRM-M-21536 of 2020, this the second petition filed seeking the same relief, the first one having been withdrawn on 11.06.2020 when this court was not inclined to grant bail to the petitioner at that stage, however today Mr. Ahluwalia, learned counsel appearing for the petitioner in CRM-M-15256 of 2020, submits that, firstly, no offence punishable under Sections 468 and 471 of the IPC is actually made out, though the FIR states so, because the allegation against the co-accused of the petitioner is that they were found to have affixed "false labels" on a huge quantity of liquor that was recovered and consequently, actually it would be Sections 481 and 482 of the IPC that could be invocable, which carry a maximum sentence of one years' imprisonment if a person is convicted for such an offence, with the maximum sentence qua any offence punishable under the Punjab Excise Act, 1914, being 3 years.

He has further submitted that even if the offences alleged to have been committed in the FIR are taken at face value, i.e. those punishable under Sections 468 and 471 of the IPC, the maximum punishment provided is 7 years, which is actually not made out in this case, and in any case with the

Supreme Court having issued guidelines to the effect that normally a person who has been incarcerated during the period of this current pandemic, for an offence punishable with a maximum punishment of 7 years, should be admitted to bail so as to avoid crowding in jails, and with the High Powered Committee of this court also having come to the same conclusion, the petitioners are entitled to be admitted to at least interim bail on that ground alone.

Mr. Benwal, learned AAG, Punjab, however submits that the petitioner in CRM-M-15256 of 2020 having been apprehended at the spot with a huge quantity of liquor made therefrom, though the petitioner in the other petition was apprehended on a disclosure statement made by one of those apprehended at the spot, they do not deserve the concession of bail.

He has further submitted that as regards Jitender Kumar, i.e. the petitioner in CRM-M-15256 of 2020, yet another case under the provisions of Punjab Excise Act, 1914, stands registered against him, though he has been admitted to bail in that case.

Having considered the matter, simply in view of the fact that the maximum sentence even as per the offences alleged in the FIR is for a period of 7 years imprisonment, without making any comment on the actual merits of the case, the petitioners are ordered to be admitted to interim bail to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate concerned, with adequately heavy amounts to be furnished by the petitioners by way of their bail bonds and surety (not less than Rs.1,00,000/-, keeping in view the fact that the quantity of liquor recovered is extremely large).

The petitioners will also immediately surrender their passports to the learned trial court/CJM/Duty Magistrate concerned.

Adjourned to 28.10.2020.

A photocopy of this order be placed on the file of the other connected case.”

Notice of motion.

On the asking of the court, Mr. Pawan Sharda, Sr. D.A.G., Punjab, accepts notice on behalf of respondent-State in the present petition.

Upon query, he could not deny that as per the contents of the FIR, the petitioners in the present petition, i.e. Jatinderpal Singh and Maninder Singh, are not any differently placed to the petitioners in those two petitions.

That being so, without making any comment on the actual merits of the case for or against the petitioners, the petition is allowed. The petitioners shall be admitted to bail upon their furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate, concerned.

September 11, 2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.