

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

**CRM-M-39653-2020
Date of decision: 04.12.2020**

Ashok Jain

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R. S. Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0029 dated 28.02.2020, registered under Sections 61, 1, 14 of the Punjab Excise Act, 1914 and Sections 420, 467, 468, 471 and 483 of the IPC at Police Station Panipat Sadar, District Panipat.

Learned senior counsel has argued that petitioner is an old man aged about 72 years and he has multiple health problems. It is further submitted that petitioner is an old heart patient and before the trial Court, his medical report was produced to show that in case of any emergency, he cannot be provided any such treatment by the Civil Hospital at Panipat.

On merits, learned senior counsel has submitted that the FIR was registered by the police on receiving a secret information that the driver of truck No.HR-69-A-6639 is coming from Karnal side carrying illegal liquor and is going towards Bihar or Gujarat. On receipt of such

information, the Investigating Officer called the Excise Inspector at the spot, along with Excise staff. The police and Excise Department laid a barrier on the national highway and noticed that the aforesaid truck reached at the spot. The Investigating Officer gave a signal to stop the truck and the driver of the truck told his name as Sajjan Singh and the person sitting on the conductor's seat told his name as Gobind. On checking of the truck, Lime Powder, along with bill was found and on further checking the body of the truck by the staff of the Excise Department, a huge amount of liquor was found. By arranging labour, illicit liquor was unloaded and it was found to be 640 boxes of Crazy Romeo (NV) quarter plastic packing and 295 boxes of Crazy Romeo (NV) quarter glass packing. Thereafter, the accused persons, who were the driver and conductor of the truck, were arrested and during investigation, it was found that they were carrying duplicate bills, fake bilities as well as the fake number plate of the truck and, therefore, while registering the FIR the offence under Sections 420, 467,, 468, 471 IPC and 61,1,14 of the Excise Act was added.

Learned senior counsel has further submitted that the police, after the arrest of aforesaid co-accused Gobind and Sajjan, recorded their disclosure statement, in which they nominated Krishan as a person who used to provide illicit liquor and upon arrest of Krishan, he has nominated one Ghanshyam Thapa and thereafter, the petitioner was nominated in the present FIR.

Learned senior counsel has further argued that neither in the disclosure of said Krishan nor in the disclosure of Ghanshyam Thapa, who is former Manager of NV Distiller and Breweries Pvt. Ltd., the name of the petitioner has surfaced.

It is further argued that petitioner is involved in number of FIRs in a sequence of disclosures recorded by the police and at the first instance, the petitioner was arrested in FIR No. 671 dated 13.10.2019, under Sections 420, 467, 468, 471, 120-B of the IPC and Section 61 of the Excise Act. The petitioner was arrested on 19.10.2020 on the basis of disclosure of a co-accused Dharambir and thereafter, he was nominated in FIR No. 187 dated 25.06.2020; FIR No. 1198 dated 16.12.2019 as well as in FIR No. 1258 dated 09.09.2018 on the disclosures of co-accused.

Learned senior counsel has further argued that in fact the other FIRs/cases are at the stage of recording evidence and the same are prior to registration of the present FIR, however, since the petitioner was arrested in the present FIR, he has been nominated in all the FIRs in a sequence of disclosures.

Learned senior counsel has next argued that in fact the petitioner is a proprietor of NV Distillery and on an earlier occasion, the petitioner has been giving complaints to the Director General of Police, Punjab and Excise and Taxation Commissioner, Punjab informing them regarding recovery of counterfeit liquor of NV Distillery Brand, which was being illegally used by some of the illegal venders operating in Lalru, Ambala etc.

Learned senior counsel further argued that despite giving complaints to police and excise authorities, no action was taken and it is further submitted that even a complaint was given on 17.07.2020 to the police authorities regarding sale of fake and spurious liquor under the brand name of Crazy Romeo (NV), however, the police authorities have not taken any action.

Learned senior counsel has, thus, argued that in all the cases, the defence, set up by the petitioner, is that the liquor recovered from co-accused was never distilled in NV Distilleries and by misusing the brand name, co-accused have been selling the same.

Learned senior counsel has further argued that the primary reason for dismissing the bail application by the Additional Sessions Judge is that the petitioner is involved in all the aforesaid FIRs, whereas the recovery was with fake labels.

It is next argued that in the distillery of the petitioner, a proper protocol and entire record, as per Excise Department, are maintained and CCTV cameras are also installed to keep a check on the liquor, which is transported out of the distilleries and the same is available with Excise and Taxation Department, however, no official from the Excise and Taxation Department has been nominated as an accused.

Learned senior counsel has lastly argued that co-accused of the petitioner, namely Krishan, Sajjan and Gobind, have been granted concession of regular bail noticing the fact that they were in custody and recovery from them was of Crazy Romeo (NV) liquor, which according to the petitioner, is not distilled in his distillery and is a fake or spurious liquor prepared by the co-accused or other vendors.

Learned State counsel could not dispute the factual position that petitioner was initially arrested in FIR No.671 on 19.10.2020 and thereafter, on the basis of disclosure statement of the accused persons in all the other FIRs, the petitioner was nominated in other FIRs as well. It is also not disputed that allegations in the present FIR are identical regarding recovery of said Crazy Romeo (NV) liquor without any batch number.

Learned State counsel has also not disputed that in some of the FIRs, investigation is complete and *challan* has been presented.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the allegations in the FIR; the fact that after the arrest of the petitioner, nothing has been recovered; the petitioner has already made complaints to the higher authorities of the police and Excise Department regarding counterfeit liquor of NV Distilleries Brand available in the market, qua which no action was taken by the police or the Excise Department and also in view of the fact that petitioner is a senior citizen having multiple health problems as noticed in the order of Additional Sessions Judge, declining bail to him on medical grounds, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail bonds and two sureties to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

04.12.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No