

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

106

**CRM-M-288-2021
Date of decision : 08.02.2021**

Sarwan Singh @ Kala

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. L.M. Gulati, Advocate
for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.116, dated 27.06.2020 registered under Sections 61 and 78 of the Punjab Excise Act, 1914 and Sections 177, 181 and 192 of the Motor Vehicles Act, 1988 in Police Station Goraya, District Jalandhar (Rural).

Briefly stated the facts relevant for disposal of the present petition are that on 27.06.2020 police party headed by SI Jagdish Raj conducted nakabandi on the basis of secret information and apprehended Nishan Singh along with Canter bearing registration No.PB-02-DS-8189 and on search recovered 17 drums containing 200 liters each and 72 cans containing 35 liters each of spirit alcohol totaling 5920 liters from the Canter. During interrogation Nishan Singh made disclosure statement implicating Sukhdev Singh @ Lala and Sonu as owner of the spirit alcohol recovered. Sukhdev Singh @ Lala made disclosure statement that the said spirit alcohol had been supplied by Sarwan Singh @ Kala (the petitioner). The petitioner was arrested on 27.06.2020. On completion of investigation challan has been filed against the petitioner and his co-accused.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Sh. Suhail Mir, IPS, Superintendent of Police, Sub Division Phillaur, District Jalandhar (Rural) in the Registry which is taken on record.

Custody certificate has also been filed by learned State Counsel through e-mail print out of which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner was not named in the FIR. The petitioner was not apprehended on the spot and no recovery was made from him. The petitioner has been falsely implicated on the basis of disclosure statement of co-accused Sukhdev Singh @ Lala. The disclosure statement is not of any evidentiary value as there is no other cogent evidence against the petitioner regarding his involvement in the crime. The petitioner has no concern with the alleged recovery of spirit alcohol. The investigation is over and challan has been filed but the charges have not yet been framed and the prosecution evidence is yet to commence. Trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner is involved in commission of serious offences and in view of the gravity of offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner who has been arrested on the basis of disclosure statement of co-accused Sukhdev Singh @ Lala and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19 but without commenting on merits of the case, I am inclined to extend the concession of regular bail to the petitioners.

In view of the above discussion, the petition is allowed and

the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that the petitioner shall not commit any offence under the Punjab Excise Act, 1914 after his release on bail and in case of commission of any offence under the Punjab Excise Act, 1914 by him after his release on bail, the bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

08.02.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No