

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3451-2021

DATE OF DECISION: APRIL 20, 2021

NITIN KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. AMIT SHARMA, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEEP PARMAR, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.204 dated 29.7.2020, under Section 61(1)(a) Excise Amendment Act and Section 420, 467, 468, 471, 201 IPC, Police Station DLF III, Gurugram. The petitioner is in custody since his arrest on 24.11.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Gurugram, in his order dated 12.1.2021, are as under:-

“Brief facts of the prosecution case are that on 28.07.2020, SI Kartar Singh has got stopped one car TATA ACE white colour DL1LX-7003 on the basis of secret information. The driver of the car disclosed his name as Happy and helper told his name as Mohit. When vehicle was checked, police found imported liquor of different brands i.e. 10 cases of Jameson, 5 cases of Chivas, 40 cases of Ballantines, 20 cases of Red Label, 4 cases of 100 Pipers, 3 cases of Dewar 12 year, 2 cases of Dewar 18 year, 20 cases of Absolut Vodka, 20 cases of

Black Label, 4 cases of Glenlivet Scotch. Inventory of the same was made. On being asked license and permit were given by the driver and helper. One Bilty of Ujjawal Logistic Transport Company bearing No.GR No.402 dated 28.07.2020 was produced by the driver as per which was sent by M/s Levitate Distributor at 26, ground Floor, New area Nagar, Delhi Merut road, Gaziabad to Gurugram at M/s High Land Liquor Private Limited. Tax Invoice bearing no.2020-21/07/010 dated 28.07.2020 alongwith the form no.85 dated 22.07.2020 issued by Amrish Kumar Sharma at Custom Duty Office situated at Greater Noida, District GB Nagar, U.P., was also produced by the driver.

Excise officials were contacted who told the police that as per Bilty and tax invoice the liquor is to be delivered at High Land Liquor Plot 17, Sector 18. However, on inquiry Anand Kumar Jha, Vice President of the Firm specifically denied any demand of liquor by them. As 120 cases of imported liquor was found in of driver and helper illegally, therefore, FIR under Section 61 of Excise Amendment Act was registered.”

Learned counsel for the petitioner has argued that the concession of interim regular bail was never misused by him and after completion of investigation, the final report stands filed. He submits that the trial of the case is likely to consume considerable time, therefore, the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by SI Sunder does not dispute this fact that the final report was filed on 22.12.2020. He has further pointed out that as there was break out of pandemic COVID-19, therefore, the other suspects could not visit the office

of the company who had given the power of attorney in favour of the petitioner who is the Sales Manger of the company and therefore, no evidence regarding their involvement in the crime was found.

After considering the learned counsel for the parties and considering the above background, this Court is of the opinion that though the trial has commenced, but is at the initial stage with no possibility of its completion in near future. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the States of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clamp down the contagion, and it would further delay the conclusion of trial. Admittedly, the petitioner is not involved in any other case of similar nature. Thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 24.11.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

April 20, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No