

CRM-M-26211-2021;
CRM-M-18010-2021; &
CRM-M-18400-2021

-1-

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

(1) CRM-M-26211-2021

Pawan @ Golu alias Behra

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRM-M-18010-2021

Amit Rathi

...Petitioner

Versus

State of Haryana

...Respondent

(3) CRM-M-18400-2021

Ashok

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision:-28.7.2021

CRM-M-26211-2021;
CRM-M-18010-2021; &
CRM-M-18400-2021

-2-

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Ms.Vaishali Kamboj, Advocate for
Mr.Parveen Sharma, Advocate
for the petitioner in CRM-M-26211-2021.

Mr.Jitender S. Kundu, Advocate
for the petitioner in CRM-M-18010-2021.

Ms.Vaishali Kamboj, Advocate
for the petitioner in CRM-M-18400-2021.

Mr.Karan Garg, AAG, Haryana.

H.S. MADAAN, J.

Cases taken up through video conferencing.

By this order, I shall dispose of three petitions i.e. CRM-M-26211-2021 filed by petitioner – accused – Pawan alias Golu @ Behra, CRM-M-18010-2021 filed by petitioner – accused – Amit Rathi and CRM-M-18400-2021 filed by petitioner - accused – Ashok, for grant of regular bail in case FIR No.746 dated 5.11.2020, under Sections 61 and 72-F of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Section 72-A-4-20 of Excise Act, 1914 and Sections 328, 272, 420, 467, 468, 471 IPC added later on), registered with Police Station City Sonipat.

Briefly stated, the facts of the case, as per prosecution story are that on 5.11.2020 on receipt of secret information that illegal liquor in Verna car of black colour was being sold in street No.2 Mayur Vihar on backside of mall, Sonipat, a police party from Police Station City, Sonipat went to the disclosed place and found the Verna car bearing registration

CRM-M-26211-2021;
CRM-M-18010-2021; &
CRM-M-18400-2021

-3-

No.HR10-AD-2891 to be there; Sachin alias Bachi son of Angrej, resident of Garhi Brahman, Sonipat and Amit son of Krishan Jatt, resident of Street No.2, Mayur Vihar, Sonipat were present inside the car; however when they were asked for checking of car, Amit son of Krishan Jatt managed to escape, whereas Sachin alias Bachi was apprehended; on checking the dicky of the car one box Beer Strong, 6 bottles of liquor make Blender Pride, 3 bottles make Royal Stag and two pints and one bottle make Teacher, one pint make White Blue and two bottles country made liquor make Santra were recovered. Accused could not produce any permit or licence for possession of such bottles of liquor. The recovered bottles of liquor were taken into possession after drawing samples. Ruqa was sent to the police station for the purpose of registration of the FIR. Petitioner Pawan alias Golu alias Behra was arrested in FIR No.752 dated 6.11.2020, Police Station City, Sonipat and was also nominated in FIR No.749 dated 6.11.2020 and then in this FIR also. He was arrested in this case on 9.11.2020. Petitioner Amit Rathi was arrested in this case on 13.11.2020 and during investigation petitioner Ashok was also nominated and he was arrested on 14.11.2020 and recovery of two bottles of liquor marka Raseela Santra and Rs.1,500/- in cash was effected from him. After completion of investigation and other formalities challan against the accused has been filed in the Court. All the petitioners/accused had approached the Courts of Sessions at Sonipat by moving applications for regular bail but the same were dismissed by learned Sessions Judge, Sonipat.

CRM-M-26211-2021;
CRM-M-18010-2021; &
CRM-M-18400-2021

-4-

As such, the petitioners have approached this Court with the same request.

Notice of the petitions was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the records.

As far as petitioner/accused Pawan @ Golu @ Behra is concerned, he is stated to be in custody since 9.11.2020. He is not named in the FIR and his name cropped up during the investigation of the case being involved in sale of spurious liquor in the area to make profit. As per the custody certificate, he is involved in two more cases, details of which are as under:

- (i) FIR No.749 dated 6.11.2020, under Sections 304, 328, 420, 272 IPC and 72-A/4/2020 Excise Act, P.S. City Sonipat.
- (ii) FIR No.752 dated 6.11.2020, under Sections 328, 272, 420, 467, 468, 471 IPC and 72-A/4/2020 Excise Act, PS City Sonipat.

Whereas petitioner/accused Amit Rathi is involved in 13 more criminal cases, as per details below:

- (i) FIR No.499 dated 11.7.2020, under Sections 323, 506, 34 IPC, P.S. City Sonipat.
- (ii) FIR No.291 dated 5.6.2019, under Sections 294, 323, 506, 34 IPC, PS City Sonipat.
- (iii) FIR No.76/2019, under Sections 186, 353, 332 IPC, P.S. City Sonipat.

CRM-M-26211-2021;
CRM-M-18010-2021; &
CRM-M-18400-2021

-5-

- (iv) FIR No.735 dated 10.12.2015, under Sections 148, 149, 323,324, 307, 506 IPC, PS City Sonipat.
- (v) FIR No.462 dated 23.11.2013, under Sections 457, 380,411 IPC, PS City Sonipat.
- (vi) FIR No.510 dated 27.12.2013, under Sections 457, 380, 411 IPC, PS City Sonipat.
- (vii) FIR No.508 dated 24.12.2013, under Sections 323, 324, 506, 34 IPC, PS City Sonipat.
- (viii) FIR No.545/2015, under Sections 323, 324, 427, 506, 147, 148 IPC, PS City Sonipat.
- (ix) FIR No.760/2020, under sections 272, 304, 328, 420 IPC and 72 of Excise Act, PS City Sonipat.
- (x) FIR No.752/2020, under Sections 272, 328 IPC, 61/4/2020 of Excise Act Har. Amendment Act, 2020 Excise Act, 72 Excise Act, 420 IPC, PS City Sonipat.
- (xi) FIR No.748/2020, under Sections 120-B, 269, 273, 420, 467, 468, 471 IPC, 61-4/20 Excise Act, PS City Sonipat.
- (xii) FIR No.745/2020, under Sections 272, 328, 420 IPC, 72-A Excise Act, 61-4-20 Excise Act, PS City Sonipat.
- (xiii) FIR No.747 dated 5.11.2020, under Sections 272, 328, 420, 467, 468, 471 IPC, 61/4/2020 Excise Act, Haryana Amendment Act, 2020 Excise Act, PS City Sonipat.

Learned State counsel has contended that all the petitioners are associated with manufacturing and supply of spurious liquor after

consuming which several persons have lost their lives in District Sonipat and Panipat and some people have lost their vision. As a matter of fact, spurious liquor was being manufactured in an illegal unit in village Naina Tatarpur. He has contended that learned Sessions Judge, Sonipat in para No.5 of the order dated 9.2.2021 passed in the bail applications filed by petitioners Amit Rathi and Ashok has specifically observed so. The petitioners are habitual criminals and in case the concession of bail is granted to them, there is every likelihood of their indulging in those very illegal activities endangering lives and health of several innocent people and furthermore there is every likelihood of the petitioners trying to tamper with the prosecution evidence by giving threats and inducement to the prosecution witnesses and to abscond even. Therefore, concession of regular bail be not granted to them.

Learned counsel appearing for the petitioners Amit Rathi and Ashok have contended that the petitioners have been falsely implicated in this case on the basis of confessional statement of their co-accused, which is inadmissible in evidence but such contention is misconceived.

Section 30 of the Indian Evidence Act provides that when more person than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.

The other submission put forward by learned counsel for the

CRM-M-26211-2021;
CRM-M-18010-2021; &
CRM-M-18400-2021

-7-

petitioner Amit Rathi was that as per CCTV footage from the camera installed on a building nearby Amit Rathi was not found sitting in the car nor any recovery had been effected from him, which falsifies the prosecution story. However, I find little merit in this contention. The authenticity of CCTV footage is yet to be verified. Unless it is established that the CCTV footage referred to by learned counsel for the petitioner relates to the spot and present recovery, the same cannot be given any importance. No FSL report verifying the correctness of such CCTV footage has been attached. Furthermore while deciding the question of bail, the merits of the case are not to be seen minutely since it is function of the trial Court to do so.

The gravity and seriousness of the allegations against the petitioners do not warrant grant of relief of regular bail to them. Though liberty of the petitioners is being curtailed but then at the same time it has to be kept in view that if released from custody, they may pose danger to the lives and safety of several innocent human beings by indulging in trade of manufacturing and supply of spurious liquor. Therefore, the comparative risk would be much more if the petitioners are granted bail than denial of such concession to them. The challan against the petitioners/accused has been filed. Their guilt would be determined during the trial. The apprehension expressed by the State counsel that if petitioners are granted bail, there is every likelihood to their absconding and even tampering with the prosecution evidence cannot be brushed aside lightly particularly in view of the past criminal record of the two of

CRM-M-26211-2021;
CRM-M-18010-2021; &
CRM-M-18400-2021

-8-

the petitioners.

Therefore, finding no merit in the petitions, the same stand
dismissed.

28.7.2021
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No