

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

107

**CRM-M-35989-2020
Date of decision: 25.01.2021**

Rajeev JoshiPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ajaivir Singh, Advocate
for the petitioner.

Mr. Rana Harjasdeep, 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 (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.109 dated 30.07.2020 registered under Sections 120-B, 201 and 304 of the Indian Penal Code, 1860 (for short, "the IPC") and Section 61 of the Punjab Excise Act at Police Station Tarsika, District Amritsar to which Section 302 of the IPC was added lateron.

The above said FIR was registered on statement of Veer Kaur. In her statement, Veer Kaur alleged that she had one son Kirpal Singh and two daughters. Her son Kirpal Singh was habitual of consuming alcohol. Balwinder Kaur, Roop Kaur and Sarabjit Singh sell illicit liquor in their village. They did not accede to her request of not selling liquor to her son. On 29.07.2020 at about 08:00 P.M. she

saw her son Kirpal Singh, Joga Singh and Soni consuming alcohol in her house. On being asked they apprised her that they had purchased the liquor from Balwinder Kaur. In the morning she came to know that four sudden deaths of Kuldeep Singh @ Gurpreet Singh, Mangal Singh, Balwinder Singh and Dalbir Singh occurred in the village due to consumption of illicit poisonous liquor. In the morning at about 07:00 A.M. she saw her son coming out of the house of Balwinder Kaur who told her that he had taken money from her and she asked him to go home. At about 5:00 P.M. when she went to her home she saw her son Kirpal Singh lying dead on the bathroom floor. She also came to know that Kashmir Singh had also died due to consumption of illicit poisonous liquor purchased from Balwinder Kaur. The police investigated the case. During investigation the police arrested the petitioner on 03.08.2020 on the basis of disclosure statements of Avtar Singh and Ravinder Singh regarding the petitioner being the person who had supplied three drums of methanol mixed with Isopropyl alcohol. On completion of investigation charge-sheet has been filed against the petitioner and his co-accused.

The petition has been opposed by the respondent-State in terms of status report filed by way of affidavit of Sukhwinderpal Singh, PPS, Deputy Superintendent of Police, Jandiala, Amritsat (Rural).

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

Learned Counsel for the petitioner has submitted that the petitioner and his family have been into the business of sale of paints,

thinner, industrial chemicals, varnishes etc. The petitioner firm is registered under the Punjab General Sales Tax Rules, 1949 and the Central Sales Tax (Registration and Turnover) Rules, 1957 and also has the GST registration. The firm of the petitioner has also been granted permission dated 21.02.2006 for storage under Rule 144 of the Petroleum Rules, 2002 by the Additional District Magistrate which is valid till date. The petitioner is buying and selling all the products against bills on payment of proper GST and no product is sold without proper billing. The petitioner did not sell any drums containing methanol mixed with Isopropyl alcohol as alleged in the disclosure statements. The petitioner was not named in the FIR. The petitioner is not alleged to be manufacturer or supplier of illicit poisonous liquor consumed by the deceased persons. The petitioner has been falsely implicated in the case on the basis of disclosure statements of Avtar Singh and Ravinder Singh. The petitioner did not have any such dealing with Ravinder Singh as alleged. Previously the petitioner was having dealing with Ravinder Singh who committed default in payment and owed money to the petitioner which was reflected in his income tax return. The petitioner was not involved in any other criminal case prior to his involvement in the present case and other cases registered against him thereafter. No recovery was effected from him. Ashwani Bajaj another person named in the disclosure statement has been found by the police to be innocent. The disclosure statement does not have much evidentiary value against the petitioner as there is no cogent corroborative evidence regarding his involvement in the crime. The

petitioner has been involved in six other cases after registration of the present FIR and the petitioner has been granted bail in two cases vide orders dated 21.12.2020 passed by learned District Sessions Judge, Tarn Taran in FIR No.218 dated 04.08.2020 registered under Sections 120-B, 326 and 328 of the IPC and Section 61 of the Punjab Excise Act, 1914 registered at Police Station Verowal, District Tarn Taran and FIR No.223 dated 02.08.2020 registered under Sections 120-B, 272 and 328 of the IPC and Section 61 of the Punjab Excise Act, 1914 at Police Station City Tarn Taran to which Sections 109, 114 and 326 of the IPC were added lateron. The investigation has already been completed and the challan has been filed. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that Ravinder Singh along with his worker Ashwani Bajaj and nephew Prabhdeep Singh had purchased three drums of alcohol mixed with Isopropyl alcohol from the petitioner which was further supplied to Avtar Singh, who further sold the same to Harjit Singh who made further supply to other co-accused persons. 92 persons died in the State of Punjab due to consumption of illicit poisonous liquor in the area of District Tarn Taran and Batala. The petitioner is named/involved in six other cases of similar nature involving deaths of 17 persons and loss of vision by 4 persons. As per statement made by Prabhdayal servant of the petitioner methanol was mixed with Isopropyl alcohol by him on instructions of the petitioner. The petitioner was entitled to sell the

above said chemicals separately and could not sell mixture of the same. The petitioner sold mixture of the above said chemicals without any bill which shows his involvement in the crime. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In the present case the petitioner, who is admittedly carrying on the business of sale of paints, thinner, industrial chemicals, varnishes etc. under requisite permission/requisite registration, is alleged to have sold the mixture of methanol mixed with Isopropyl alcohol to Ravinder Singh, Harjit and Prabhdeep Singh. The petitioner is said to be involved in the crime on the basis of disclosure statements of co-accused Avtar Singh and Ravinder Singh. The petitioner has denied the allegations as to sale of mixture of methanol mixed with Isopropyl alcohol to them. There is debatable question as to involvement of the petitioner in manufacture and supply of the illicit poisonous liquor for consumption and evidentiary value of the disclosure statements is also under challenge. No recovery was allegedly made from the possession of the petitioner. The investigation has already been completed and challan has been filed but the case is at the initial stage.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner and the fact that trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds in heavy amount 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 leave the country without permission of the trial Court and shall not commit any similar offence after his release on bail and in case of commission of any similar offence by him in future after release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

25.01.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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