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

CRM-M-1553-2022 (O&M)
Date of decision : 25.08.2022

Dharamraj @ Lavya Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ashwani Bhardwaj, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.437 dated 06.11.2020 registered under Sections 304, 328, 420, 34 of the Indian Penal Code, 1860 and Section 72A(a) of the Punjab Excise Act, 1914 at Police Station Gannaur, District Sonipat.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 18.06.2021 and challan has been presented and there are 80 prosecution witnesses, out of which, only two witnesses have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that as per FIR, the complainant has stated that he was addicted to liquor and he had asked Ram Narain to arrange for the same and the said Ram Narain had got countrymade liquor make Santra from Rajbir.

It is contended that liquor was not purchased from the present petitioner. It is further contended that the name of the present petitioner has been mentioned in the FIR being the brother of Rajbir and it has been alleged that the present petitioner has been running the liquor vend, of which, the petitioner is actually a licenced liquor vendor. It is argued that even as per the disclosure statement of Rajbir, who is the brother of the present petitioner, it is apparent that the said Rajbir had stated that he was the one who had sold the liquor to Naveen and to other persons at the rate of Rs.100/110/120/- per bottle after having purchased the same from Ajit @ Jeeta. It is further argued that the disclosure statement of the said Rajbir further reveals that after Rajbir learnt that the said liquor is causing serious health issues, then, he went and told Ajit @ Jeeta regarding the same. It is also submitted that even as per the said disclosure statement, only role attributed to the present petitioner is that the petitioner had introduced the said Rajbir to Ajit @ Jeeta and it is not the case of the prosecution that it is the petitioner who had either manufactured or had sold the liquor to the complainant or other persons. It is also contended that the said Naveen has been examined as PW1 and Ram Narain has been examined as PW2 and they have not supported the case of the prosecution and even against Rajbir and thus, have been declared as hostile.

On the other hand, learned State Counsel has opposed the present petition for grant of concession of regular bail to the petitioner and has submitted that on account of spurious liquor, several persons had suffered, resulting into the death of several persons and that the present petitioner is a habitual offender and is involved in other cases also.

Learned counsel for the petitioner, in rebuttal, has relied upon

the judgment of Hon'ble Supreme Court in “***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***”, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard the learned counsel for the parties and has perused the paper book.

The petitioner is in custody since 18.06.2021 and investigation is complete and report under Section 173 of Cr.P.C. has been presented and there are 80 prosecution witnesses, out of which, only two witnesses have been examined and thus, the conclusion of trial is likely to take time. A perusal of FIR as well as the disclosure statement of the co-accused Rajbir would show that the complainant-Naveen has stated that he was addicted to liquor and he had asked Ram Narain to arrange for the liquor and the said Ram Narain had got country made liquor from Rajbir and Rajbir has further, in his disclosure statement, had stated that he had got the said liquor from Ajit @ Jeeta and had given the same to the complainant and other persons and after having learnt that the said liquor is causing serious health issues, he had told Ajit @ Jeeta about it. In the said disclosure statement, only

allegation against the petitioner is that the petitioner had introduced Ajit @ Jeeta and others persons to Rajbir. It is not the case of the prosecution that it is the present petitioner who has either manufactured or sold the liquor to the complainant or other persons. No recovery has been effected from the present petitioner. Even the complainant-Naveen and Ram Narain, who have been examined as PW1 and PW2 respectively, have not supported the case of the prosecution and thus, have turned hostile.

Keeping in view the abovesaid facts and circumstances, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

25.08.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**