

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-8466-2022

Decided on : 28.07.2022

Amit Khatri

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Parveen Sharma, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 752 dated 06.11.2020 under Sections 272, 328, 420, 467, 468, 471 of the Indian Penal Code, 1860 and Section 72-A of Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) registered at Police Station Sonapat City, District Sonapat, Haryana.

Learned counsel for the petitioner has submitted that the FIR in the present case was registered on the basis of secret information to the effect that one Pawan @ Golu @ Behra is indulged in the sale of spurious liquor and thereafter, the raid was conducted in which 14 bottles of illicit liquor were recovered from the said Pawan @ Golu @ Behra and one another person who was also present at the spot had managed to escape. It is further submitted that the person who had run away was Satpal and the

present petitioner has been implicated on the basis of the disclosure statement of Pawan @ Golu @ Behra and no recovery has been effected from the petitioner. It is contended that the petitioner has been in custody since 17.11.2020 and the challan in the present case has already been presented and there are as many as 31 prosecution witnesses out of whom, only 9 witnesses have been examined and thus, the trial is likely to take time. Even after the arrest of the petitioner, no further recovery has been effected from the present petitioner. The co-accused of the petitioner namely Pawan @ Golu @ Behra and Amit Rathi have already been granted the concession of regular bail by the Sessions Judge, Sonipat and a coordinate Bench of this Court, respectively.

Learned State counsel has opposed the present application for regular bail and has submitted that the petitioner is involved in several other cases.

Learned counsel for the petitioner has rebutted the said argument and submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others*** 2012 (2) SCC 382 reference has been made to the relevant portion of paragraph 6 which 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 learned counsel for the parties and has perused the paperbook.

The petitioner has been in custody since 17.11.2020 and the challan in the present case has already been presented and there are as many as 31 prosecution witnesses out of whom only 9 witnesses have been examined and thus, the trial is likely to take time. The petitioner is neither named in the FIR nor has been named in the secret information and further, no recovery has been effected from him. The recovery of 14 bottles of illicit liquor has been effected from the co-accused Pawan @ Golu @ Behra and the petitioner is stated to be implicated on the basis of the disclosure statement of the said Pawan @ Golu @ Behra and even after the arrest, no recovery has been effected from the present petitioner. The co-accused of the petitioner namely Pawan @ Golu @ Behra has been granted the concession of regular bail vide order dated 10.11.2021 passed by the Sessions Judge, Sonipat and co-accused namely Amit Rathi has been granted the concession of regular bail vide order dated 02.11.2021 passed by a coordinate Bench of this Court. The recovery has already been effected in the present case.

Keeping in view the abovesaid facts and circumstances, moreso, the law laid down in Maulana's (*supra*) case, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, nothing stated above shall be construed as a final 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.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

(VIKAS BAHL)
JUDGE

28.07.2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No