

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 29.08.2022

1.

CRM-M-12607-2022(O&M)

Sandeep alias Mama

... Petitioner

Versus

State of Haryana

... Respondent

2.

CRM-M-12620-2022

Mohit @ Moti

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Pawan Kumar Hooda, Advocate
for the petitioner.

Mr.Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

CRM-31367-2022 IN CRM-M-12607-2022

This is an application under Section 482 Cr.P.C. for placing on
record the documents as Annexures P-3 to P-8.

Allowed as prayed for. Annexures P-3 to P-8 are taken on
record subject to all just exceptions.

Main cases

This order will dispose of two petitions filed under Section 439
Cr.P.C. for grant of regular bail to the petitioners in FIR no.760 dated
11.11.2020 registered under Sections 304, 328, 272, 420 IPC and Section

72(A)-4-2020 of Excise Act, (Sections 120B, 467, 468, 471 IPC added lateron) at Police Station City Sonapat, District Sonipat.

The first petition, i.e. CRM-M-12607-2022 has been filed by Sandeep alias Mama and the second petition, i.e. CRM-M-12620-2022 has been filed by Mohit @ Moti.

Learned counsel for both the petitioners has submitted that the petitioners have been in custody since 25.12.2020 and the investigation is complete and the challan has already been presented and no witness has been examined and thus, the trial is still at the initial stage. It is further submitted that the petitioners were not named in the FIR and the FIR has been registered on the statement of one Rajjo wife of Mahender, who alleged that her husband consumed spurious liquor and died. It is contended that in the FIR, it has been specifically mentioned that the deceased Mahender had told the complainant that on 31.10.2020, he had purchased country made liquor 'Rasila' from one Raunak son of Bijender. It is further submitted that Raunak was arrested and in his disclosure statement dated 08.11.2020 he had named several persons but had not named the present petitioners. It is also submitted that even in the second disclosure statement dated 16.11.2020 (Annexure P-4) also, the said Raunak had not named the present petitioners and the present petitioners were implicated only on the basis of disclosure statement dated 25.12.2020 (Annexure P-7) of co-accused Naresh @ Nancy and after recording the said disclosure statement, the petitioners were arrested on 25.12.2020 and even thereafter, no recovery has been effected from the present petitioners.

Learned State counsel has opposed the present petition for regular bail and has submitted that as per the disclosure statement of Naresh

@ Nancy on 25.12.2020, both the present petitioners were operators of the business of spurious liquor and both the petitioners are habitual offender and there are several cases against them.

Learned counsel for the petitioner, in rebuttal, has submitted that the facts of the present case are to be considered for the purpose of present bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases and 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**. 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 learned counsel for the parties and has perused the paper book.

Both the petitioners have been in custody since 25.12.2020 and the investigation is complete and challan has been presented and since no witness has been examined and the trial is at its initial stage, thus, the conclusion of the trial is likely to take time. A perusal of the FIR would show that it has been stated by the complainant Rajjo that her husband had died after consuming spurious liquor and her husband had informed her that on 31.10.2020, he had purchased country made liquor 'Rasila' from one Raunak son of Bijender and the present petitioners were not named in the

statements dated 08.11.2020 and 16.11.2020 of said Raunak were recorded but the said Raunak had not named the present petitioners in either of the said two statements. The petitioners have been implicated on the basis of disclosure statement of co-accused Naresh @ Nancy dated 25.12.2020 and after the said disclosure statement, the petitioners were arrested and even after their arrest, no recovery has been effected from them. The question whether the petitioners are involved in the present incident or not, would be finally adjudicated during the course of the trial.

Keeping in view the above said facts and circumstances, the present petition is allowed and also in view of the law laid down in ***Maulana's*** case (supra) and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

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

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 petition.

(VIKAS BAHL)
JUDGE

August 29, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No