

CRM-M-18210-2022 and
CRM-M-18340-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(210)

1. CRM-M-18210-2022
Sahil RathiPetitioner

Versus

State of HaryanaRespondent

2. CRM-M-18340-2022
Satpal alias HappuPetitioner

Versus

State of HaryanaRespondent

Date of decision: - 18.05.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Parveen Sharma, Advocate
for the petitioner in CRM-M-18210-2022.

Mr. Rakesh Kumar Lathwal, Advocate
and Mr. Man Mohit Malik, Advocate
for the petitioner in CRM-M-18340-2022.

Mr. Munish Sharma, AAG, Haryana.

Mr. Anuj Arya, Advocate
for the complainant.

VIKAS BAHL, J. (ORAL)

This order will dispose of two petitions. The first
petition has been filed by petitioner-Sahil Rathi i.e. CRM-M-18210-
2022 and the second petition has been filed by petitioner-Satpal alias

Happu i.e., CRM-M-18340-2022.

Both the said petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.749 dated 06.11.2020, registered under Sections 304 and 420 IPC and Section 72A-4-20 of the Excise Act (Sections 272, 304-A, 328, 467, 468 and 471 IPC and Section 61-4-20 of the Excise Act have been added later on), at Police Station City Sonipat, District Sonipat.

Learned counsel for both the petitioners have submitted that in the present case, the petitioners were not named in the FIR and have been in custody since 15.11.2020 and there are 56 prosecution witnesses, out of which, only one has been examined, thus, the trial is likely to take time. It is further submitted that the petitioners Sahil Rathi and Satpal @ Happu have been implicated solely on the basis of the disclosure statement of co-accused i.e., Amit Rathi and Pawan @ Golu @ Behra, respectively and no recovery of any illicit and illegal liquor has been made from the present petitioners even after the said disclosure statements had been made. It is further submitted that the disclosure statement made before the police is inadmissible in evidence. It is submitted that the complainant in the present case has given an affidavit in which he has specifically mentioned that his brother had died due to unknown reasons and that he does not want to take any action in the said regard. It is also submitted that co-accused Pawan @ Golu @ Behra, who was the person from whom, as per the supplementary statement of the complainant, the liquor consumed by the deceased was purchased, has

already been granted the concession of regular bail by this Court vide order dated 23.03.2022 passed in CRM-M-1847-2022.

Learned counsel for the complainant is also present in the Court and has reiterated the fact that the complainant had given an affidavit to the effect that his brother had died due to unknown reasons and the said affidavit has been given by him without any pressure or undue influence.

Learned State counsel has opposed the present petition for the grant of regular bail and has submitted that both the petitioners are involved in other cases also. Learned State counsel further pointed out that in the present case, the FSL report has been received and as per the said FSL report, Methyl alcohol had been found in the stomach of the deceased.

Learned counsel for the petitioners, in rebuttal, has relied upon a judgment of the 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 while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. 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 gone through the paper-book.

It is not in dispute that in the present FIR, which had been got registered by the complainant Rajan, both the petitioners were not named as accused. Both the petitioners are stated to be in custody since 15.11.2020 and there are 56 prosecution witnesses, out of whom, only one has been examined, thus, the trial is likely to take time. The petitioners in the present case have been implicated solely on the basis of disclosure statement of the co-accused, in pursuance of which, no recovery of illicit or illegal liquor has been made from either of the petitioners. The complainant has also given an affidavit stating that he does not want to take any action against the present petitioners and that his brother had died due to unknown reasons. The co-accused of the petitioners, namely, Pawan @ Golu @ Behra has already been granted the concession of regular bail by this Court vide order dated 23.03.2022 passed in CRM-M-1847-2022 and the case of the petitioners, if not on a better footing, is atleast on a similar footing as that of the said Pawan @ Golu @ Behra.

Keeping in view the above-said facts and circumstances and the law laid down in **Maulana's case (supra)**, the present petitions are allowed 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.

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 cases which are only for the purpose of adjudicating the present bail petitions.

It is made clear that in case, any act is done by the petitioners to threaten or influence 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 petitioners.

May 18, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No