

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

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**CRM-M-22468-2020 (O&M)
Date of decision: 24.11.2022**

State of Punjab

...Petitioner

Versus

Rakesh Kumar @ Bittu Chhabra

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gurlal Singh Dhillon, AAG Punjab.

Mr. Rhythem Bajaj, Advocate for
Mr. Sant Pal Singh Sidhu, Advocate for the respondent.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for cancellation of regular bail granted to the respondent vide order dated 23.06.2020 passed by the learned Additional Sessions Judge, Ludhiana, in case bearing FIR No. 13 dated 13.02.2020, registered under Section 420, 467, 468, 471, 120-B IPC, Section 61 of the Punjab Excise Act and Section 7 of the Essential Commodities Act, at Police Station Jodhan, District Ludhiana.

Learned State counsel submits that on a secret information, raid was conducted by the police in the house of co-accused Harpreet Singh and 21 bottles of English Liquor make 100 pipers, 03 boxes of liquor make Black Label, 01 box of Gold Label, 20 Boxes of liquor make Chivas Regal, 01 box of liquor make Teachers, 02 boxes of liquor make Glenlivet and 02 boxes of

liquor make 999 star whisky were recovered; that after registration of the FIR an SIT was constituted and co-accused Harpreet Singh, Suresh Kumar and other co-accused were arrested on different dates; that during investigation it revealed that the respondent has purchased 35/40 boxes of spurious liquor from co-accused Suresh Kumar; that the respondent was arrested on 16.06.2020 and he was granted regular bail vide order dated 23.06.2020 passed by the learned Additional Sessions Judge, Ludhiana.

Learned State counsel further submits that the respondent is actively involved in preparing and selling of the illicit liquor; that the learned Additional Sessions Judge, Ludhiana, has wrongly granted regular bail to the respondent without taking into consideration the fact that the empty boxes of high end Scotch Whiskies were recovered from the possession of the respondent and that the respondent has caused loss to the excise department and defrauded the innocent persons.

Learned counsel appearing for the respondent submits that the respondent was arrested on the disclosure statement of the co-accused alleging therein that he had sold 35/40 boxes of spurious liquor to the respondent and during judicial custody no recovery has effected from the respondent and the concession of regular bail has not been misused by the respondent. The challan has been presented but the charges are yet to be framed.

I have heard the learned counsel for the parties and have also gone through the documents on record.

Perusal of the order dated 23.06.2020 passed by the learned Additional Sessions Judge, Ludhiana, would reveal that after considering the

evidence the bail was granted to the respondent. The relevant Para read as under:-

“6. Apparently, as admitted by both the parties, on the application dated 17.06.2020 filed by the prosecution, the learned Illaqa Magistrate did not grant the police remand of applicant-accused. At this stage of the case it is clear that the applicant-accused has been nominated in the present case during the investigation of another accused and the legality and validity of such statement is to be seen during the trial. In case the applicant-accused was in touch with the main accused Amit Singh Parmar, it is not for the applicant-accused to get the said accused arrested as the said accused can be arrested otherwise by the police. It is only the disclosure of co-accused that the applicant-accused allegedly purchased 35/40 boxes of liquor and in case any recovery is to be effected, the investigating officer can take steps towards this, but at this stage of the case the applicant-accused is in judicial custody and there is no recovery of liquor from the applicant-accused. The completion of investigation, presentation of report under Section 173 of Code of Criminal Procedure and conclusion of trial is likely to take time. No useful purpose shall be served by detaining the applicant-accused in custody for indefinite period. Hence, the present application merits to be allowed.

7. For the reasons recorded above, the present application is allowed. The applicant-accused is ordered to be released on bail on his furnishing of personal bond in the sum of Rs.40,000/- with one surety in the like amount to the satisfaction of learned Illaqa/Duty Magistrate. Keeping in view the lock-down due to Covid-19, if the applicant-accused files an application, the learned Illaqa/Duty Magistrate may consider the release of the applicant-accused on his personal bond subject to the condition of furnishing of surety bonds within the period stipulated by learned Illaqa/Duty Magistrate. The applicant-accused shall abide by the following conditions:- a) the applicant-accused shall appear during the trial on each and every date of hearing; b) the applicant-accused shall not leave India without the prior permission of the Court; c) the applicant-accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer”

In view of the facts that the respondent was indicted in the present case on the disclosure statement of the co-accused and during judicial custody nothing recovered from him. The charges are yet to be framed and the respondent has not misused the concession of regular bail granted to him. Thus, the petition is liable to be dismissed.

Dismissed.

24.11.2022

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

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