

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27669-2022
Date of decision : 07.07.2022

Anil Malik

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Satnam Singh Sishodia, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 746 dated 05.11.2020 registered under Sections 120-B, 272, 328, 420, 467 and 471 of the Indian Penal Code, 1860 and Section 72-A of Excise Act at Police Station City Sonipat, District Sonipat.

Learned counsel for the petitioner has submitted that in the present case, on the basis of secret information, one person was apprehended at the spot, i.e. Sachin, from whom illegal liquor was seized whereas other co-accused namely, Amit Khatri, was able to flee from the spot. It has been submitted that the petitioner was not named in the FIR nor any recovery has been effected from him. It has also been submitted that the petitioner has been implicated on the basis of disclosure statement of Sachin and even after the recording of the said disclosure statement, no recovery

has been effected from the present petitioner. It has further been submitted that Amit Khatri, who was also present in the car although, he managed to run away, has already been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 18.11.2021 (Annexure P-6). It has been stated that the petitioner has been in custody since 14.12.2021 and there are 22 prosecution witnesses, out of which only one witness has been examined, thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in several other cases. It has also been submitted that as per the disclosure statement of Sachin, illegal / spurious liquor was being obtained from the present petitioner to be sold further. The other facts have, however, not been disputed.

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 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 perused the paper book.

A perusal of the FIR would show that the petitioner has not been named in the FIR and no recovery has been effected from the petitioner. The car in which illegal / spurious liquor was being taken was apprehended and in the said car, the co-accused person, i.e. Sachin was apprehended and the other co-accused, i.e. Amit son of Krishana, managed to flee from the spot. The petitioner was neither named in the FIR nor was apprehended at the spot. The co-accused of the petitioner namely Amit Khatri, who managed to run away from the spot, has been granted the concession of regular bail by a coordinate Bench of this Court, vide order dated 18.11.2021 passed in CRM-M-29423-2021. The petitioner is sought to be implicated solely on the basis of disclosure statement of Sachin and even after recording of said disclosure statement of Sachin, no recovery has been effected from the petitioner. The petitioner has been in custody since 14.12.2021 and there are 22 prosecution witnesses, out of which only one witness has been examined, thus, the trial is likely to take time. Learned counsel for the petitioner has submitted that co-accused of the petitioner namely Sahil Rathi has been granted the concession of regular bail vide order dated 02.06.2022 passed in CRM-M-23585-2022 and the case of the present petitioner is on a similar footing as that of said Sahil Rathi.

Keeping in view the above said facts and circumstances and also in view of the law laid down in ***Maulana's*** case (supra), 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.

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

July 07, 2022
Davinder Kumar

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