

CRM-M-28150-2022 and
CRM-M-6332-2022

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(216)

1. CRM-M-28150-2022
Saurab and anotherPetitioners

Versus

State of Haryana and anotherRespondents

2. CRM-M-6332-2022
Naresh Kumar alias PappiPetitioner

Versus

State of HaryanaRespondent

Date of decision: - 04.08.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ketan Antil, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This order will dispose of two petitions. The first petition has been filed by two petitioners, namely, Saurab and Gaurav i.e., CRM-M-28150-2022 and the second petition has been filed by Naresh Kumar alias Pappi i.e. CRM-M-6332-2022.

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.804 dated

08.12.2020, under Sections 278, 304, 328, 420, 180 and 201 of the Indian Penal Code, 1860 and Section 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Sections 278, 180 and 201, 468, 467, 471, 120-B IPC have been added later on and Section 272 IPC has been deleted later on), registered at Police Station Sonipat City, Sonipat.

Learned counsel for the petitioners has submitted that all the three petitioners are in custody since 26.07.2021 and the charges have not framed as yet and there are total 29 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that the petitioners are not involved in any other case. It is pointed out that as per the FIR, the death of husband of the complainant had taken place on 04.11.2020, whereas, the FIR has been registered on 08.12.2020 i.e., after a delay of 34 days. It is also submitted that even in the said FIR, it had been stated that husband of the complainant had died due to stomach illness and it is only thereafter, when the postmortem had been conducted that the complainant had verified at her own level and found that it is the present three petitioners and wife of Naresh, namely, Pushpa, who had sold the illicit spurious liquor to the deceased and he had consumed the said illicit liquor and had died because of the same. It is argued that the present petitioners were not implicated on the basis of investigation carried out by the police but have been implicated on the basis of some investigation carried out by the complainant herself at her own level and there is no tangible material to show as to how the complainant has connected the present petitioners with the selling of

illicit and spurious liquor, more so, to the death of the husband of the complainant. It is further argued that in fact the said complainant-Kanta has given an affidavit (P-3 annexed with CRM-M-28150-2022) to the effect that she had got the present petitioners implicated on the basis of false rumors and on account of doubt and misunderstanding and that now Kanta (complainant) and her son are satisfied that the petitioners had no concern with the death of the husband of the complainant. Learned counsel for the petitioners has further submitted that no recovery of illicit liquor has been effected from any of the petitioners. It is also pointed out that observations made in the order dated 31.05.2022 passed by the Additional Sessions Judge, Sonipat, rejecting the bail applications of the petitioners Saurab and Gaurav, are incorrect to the extent that it has been wrongly mentioned therein that the said petitioners are involved in eight other cases and that the petitioners have a liquor vend in Sector 23, Sonipat.

Learned State counsel, on the other hand, has opposed the present petitions for regular bail and has submitted that in the present case, the FIR has been registered by the complainant after seeing the postmortem report and in the said FIR, she has specifically stated that it is the petitioners and Pushpa, who is wife of petitioner Naresh, who had sold the illicit liquor to the husband of the complainant. Learned State counsel has further stated that it has been wrongly recorded in the impugned order dated 31.05.2022 that the petitioners Saurab and Gaurav are involved in eight other cases and has stated that in fact, they are not

involved in any other case.

This Court has heard learned counsel for the parties and gone through the paper-book.

The petitioners are in custody since 26.07.2021 and the charges have not framed as yet and there are total 29 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. The petitioners are stated to be not involved in any other case. A perusal of the FIR would show that the death of the husband of the complainant had taken place on 04.11.2020 and the FIR has been registered on 08.12.2020 i.e. after a delay of 34 days. The petitioners have been named as accused in the FIR only on the basis of the investigation done by the complainant Kanta at her own level and not on the basis of any investigation carried out by the police, that too, after a delay of 34 days. A perusal of the affidavit dated 19.03.2021 (Annexure P-3) would show that she has stated that she had got the present petitioners implicated on the basis of false rumors and on account of doubt and misunderstanding and that now, she and her son are satisfied that the present petitioners were not involved in the death of her husband. The factum with respect to the said statement made by the complainant is also mentioned in para 9 of the impugned order dated 31.05.2022 passed by the Additional Sessions Judge, Sonipat while rejecting the bail application of the petitioners Saurab and Gaurav.

Keeping in view the above-said facts and circumstances, 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.

August 04, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No