

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

234

CRM-M-29872-2022(O&M)

Date of decision: 24.08.2022

CHARANJIT SINGH @ CHARANA

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Gopal Singh Nahel, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG Punjab.

VIKAS BAHL. J. (ORAL)

This is the second petition filed under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.16 dated 02.02.2022 registered under Sections 61, 1, 14 of the Punjab Excise Act, 1914 at Police Station Sadar Sangrur, District Sangrur.

Learned counsel for the petitioner has stated that the petitioner is in custody since 05.02.2022 and challan in the present case has been filed. There are 10 prosecution witnesses, out of which 08 witnesses are yet to be examined and thus, the trial would take time to conclude. It is submitted that the case is triable by Magistrate. It is further submitted that at the time of alleged recovery, the petitioner was not apprehended at the spot. It is further submitted that recovery has already been effected and no purpose would be served by keeping the petitioner in further incarceration.

Learned State counsel on the other hand has opposed the petition for regular bail by stating that the petitioner is involved in a large number of cases

and is a habitual offender. It is further submitted that the recovery has been made from the house of the petitioner.

Learned counsel for the petitioner in rebuttal has submitted that in all the other cases the petitioner is either on bail or has been acquitted or undergone the sentence awarded 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*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. 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 perused the material on record.

Petitioner is in custody since 05.02.2022 and challan has already been presented. There are 10 witnesses out of which 08 witnesses are yet to be examined and the trial is likely to take time. The petitioner was not apprehended at the spot when the raid was conducted and the alleged recovery had been effected. The case is triable by Magistrate and no purpose would be served by keeping the petitioner in further incarceration. The earlier regular bail petition was withdrawn on 29.04.2022 and thereafter, almost 04 months have elapsed, entitling the petitioner to file a petition for grant of regular bail.

Accordingly, the petition is allowed and the petitioner is directed to

be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten 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 petitioner.

Nothing stated above shall be construed as an 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 24, 2022
S.Sharma(syr)

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