

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

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**CRM-M-31254-2022
Date of decision: 31.08.2022**

GANGA RAM

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Rajat Mor, Advocate
for the petitioner.

Mr. Munish Sharma, AAG Haryana.

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.239 dated 19.08.2021 registered under Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 and Section 61 of the Excise Act (Section 120-B IPC added later on) at Police Station Kaithal, District Kaithal.

Learned counsel for the petitioner submits that petitioner is in custody since 11.03.2022, investigation in the case is complete and challan has been presented. Prosecution has cited as many as 16 witnesses but none have been examined so far thus, the trial is likely to take time. It is further submitted that as per the case of the prosecution, petitioner was not apprehended at the spot and the recovery in the present case had already been effected thus, no useful purpose would be served in keeping the petitioner in further incarceration. It is submitted that the earlier bail petition was withdrawn by the petitioner on 11.05.2022 and thereafter, a period of 03 months and 20 days has elapsed and still no witness has

been examined till date. It is further submitted that the case is triable by Magistrate.

Learned State counsel has opposed the petition for regular bail and submitted that the petitioner is involved in one more case. It is submitted that although the petitioner was not apprehended at the spot but mobile phone of the petitioner was recovered from the *trolla* from which 12000 bottles of illicit english liquor had been recovered and shows that the petitioner is involved in the present case.

Learned counsel for the petitioner in rebuttal has submitted that in all the other cases the petitioner is on bail 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 has perused the paperbook.

Petitioner is in custody since 11.03.2022 and the investigation in the case is complete. No witness has been examined out of 16 prosecution witnesses and thus, the trial is likely to take time. The case is triable by a Magistrate. The

petitioner was not apprehended at the spot and recovery of liquor has already been effected and no further recovery is to be made from the present petitioner.

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 31, 2022

S.Sharma(syr)

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