

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34811-2022
Date of decision : 16.08.2022

Sahil Rathi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Parveen Sharma, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P. C. for grant of regular bail to the petitioner in FIR no.745 dated 04.11.2020 registered under Section 61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and Sections 272, 420, 467, 468, 471 IPC (Section 72-A of the Punjab Excise Act, 1914 added later on) at Police Station City Sonipat, District Sonipat.

Learned counsel for the petitioner has submitted that the petitioner is not named in the secret information nor was named in the FIR and the alleged recovery of 29 bottles of Falcon Santra, 7 bottles of make Murthal, 9 half bottles of Santra Falcon and 18 quarters of Santra Falcon (country made liquor) was effected from Karambir and not from the present petitioner. It is submitted that the petitioner along with large number of other persons and Amit Rathi were involved in the present case on the basis

of disclosure statement made by said Karambir and even after the said statement, no recovery has been effected from the petitioner although the petitioner was arrested on 12.11.2020. It is submitted that Amit Rathi, co-accused of the petitioner, who is on similar footing as that of the present petitioner, has already been granted bail by a coordinate Bench of this Court vide order dated 24.03.2021 passed in CRM-M-9080-2021. It is further submitted that the petitioner has been in custody since 12.11.2020 and there are 19 witnesses, out of which, only 7 witnesses have been examined and 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.

Learned counsel for the petitioner, in rebuttal, has relied upon 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.

The petitioner has been in custody since 12.11.2020 and there are 19 witnesses and out of them, only 7 witnesses have been examined and thus, the trial is likely to take time. The petitioner is neither named in the FIR nor in the secret information and no recovery has been effected from the present petitioner and the alleged recovery has been effected from Karambir. The petitioner is similarly placed as Amit Rathi, who has also been named in the disclosure statement of Karambir as was the present petitioner and the said co-accused Amit Rahti has been granted bail by a coordinate bench of this Court vide order dated 24.03.2021 passed in CRM-M-9080-2021.

Keeping in view the above said facts and circumstances and in view of 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

August 16, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No