

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(226)

CRM-M-35207-2022

Date of decision: - 23.08.2022

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)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.748 dated 06.11.2020 under Sections 120-B, 269, 273, 420, 467, 468 and 471 of the Indian Penal Code, 1860 and Section 61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Section 72-A of the Punjab Excise Act, 1914 has been added later on), registered at Police Station City Sonipat, District Sonipat.

Learned counsel for the petitioner has submitted that the FIR had been registered after a raid had been conducted in the premises of contractor namely Satpal and at the time of the raid, 45 bottles of country made liquor was were recovered from there, in the presence of Parvesh Kumar (Salesman). It is further submitted that the petitioner was not present

at the spot, nor was named in the FIR, nor any recovery has been effected from him and the petitioner is sought to be implicated on the basis of the disclosure statement of the co-accused Satpal and even after the arrest of the petitioner on 17.11.2020, no recovery has been effected from him. It is contended that the petitioner has been in custody since 17.11.2020 and the challan in the present case has already been presented and there are as many as 31 prosecution witnesses out of whom, only 5 witnesses have been examined and thus, the trial is likely to take time. The co-accused of the petitioner, namely, Amith Rathi, who is similarly placed as the present petitioner, has already been granted the concession of regular bail by a coordinate Bench of this Court. It is further submitted that even co-accused of the petitioner, namely, Amit Khatri, who has also been similarly situated as the present petitioner, has been granted the concession of regular bail by this Court, vide order dated 28.07.2022 passed in CRM-M-35022-2021.

Learned State counsel has opposed the present application for regular bail and has submitted that the petitioner is involved in several other cases and therefore, does not deserve the concession of regular bail.

Learned counsel for the petitioner has rebutted the said argument and submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as *Maulana Mohd. Amir Rashadi Vs. State of U.P. and others reported as 2012 (2) SCC 382* reference has been made to the relevant

portion of paragraph 6 which 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.

The petitioner has been in custody since 17.11.2020 and the challan in the present case has already been presented and there are as many as 31 prosecution witnesses out of whom, only 5 witnesses have been examined and thus, the trial is likely to take time. The recovery has been effected from the premises of contractor Satpal in the presence of Parvesh Kumar, salesman and the present petitioner was not named in the FIR nor was present at the time of recovery nor any recovery has been effected from him. The petitioner is sought to be implicated on the basis of the disclosure statement of Satpal but even after the arrest of the present petitioner, no recovery has been effected from him. The co-accused of the petitioner, namely, Amith Rathi, who is similarly placed as the present petitioner, has already been granted the concession of regular bail by a coordinate Bench of this Court vide order dated 15.06.2021 passed by a coordinate Bench of this Court. Moreover, even co-accused of the petitioner, namely, Amit Khatri, who is similarly situated as the present petitioner, has been granted the concession of regular bail by this Court, vide order dated 28.07.2022 passed in CRM-M-35022-2021. Further, recovery has already been effected in the present case.

Keeping in view the abovesaid facts and circumstances, moreso, the law laid down in *Maulana Mohd. Amir Rashadi'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.

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

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.

August 23, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No