

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

CRM-M-35516-2022(O&M)

Date of decision:-28.9.2022

Ashok Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rakesh Kumar Lathwal, Advocate with
Mr.Man Mohit Malik, Advocate
for the petitioner.

Mr.Vijesh Sharma, Addl.A.G., Haryana.

H.S. MADAAN, J.

1. Reply filed on behalf of State, which is taken on record.
2. This third petition for regular bail has been filed by petitioner – Ashok Kumar – an accused in FIR No.746 dated 5.11.2020, under Sections 61 and 72-F of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Section 72-A-4-20 of Excise Act, 1914 and Sections 328, 272, 420, 467, 468, 471 IPC, 120-B IPC, registered with Police Station City Sonipat.
3. The first petition filed by the petitioner bearing CRM-M-18400-2021 along with such similar petitions filed by his co-accused Pawan @ Golu alias Behra and Amit Rathi had been disposed of vide a consolidated order dated 28.7.2021 inasmuch the said petitions had been

dismissed, copy of order being Annexure P7. The petitioner had filed another petition for regular bail bearing bearing CRM-M-46631-2021. However, that petition was withdrawn and was dismissed as such vide order dated 1.2.2022, copy of order being Annexure P8.

4. In nutshell the facts of the case are that on 5.11.2020 on receipt of a secret information that illegal liquor in Verna car of black colour was being sold in street No.2 Mayur Vihar on backside of Mall, Sonipat, a police party from Police Station City, Sonipat went to the disclosed place and found the Verna car bearing registration No.HR10-AD-2891 to be there; Sachin alias Bachi son of Angrej, resident of Garhi Brahman, Sonipat and Amit son of Krishan Jatt, resident of Street No.2, Mayur Vihar, Sonipat were present inside the car; however when they were asked for checking of car, Amit son of Krishan Jatt managed to escape, whereas Sachin alias Bachi was apprehended; on checking the dicky of the car, one box Beer Strong, 6 bottles of liquor make Blender Pride, 3 bottles make Royal Stag and two pints and one bottle make Teacher, one pint make White Blue and two bottles country made liquor make Santra were recovered. Accused could not produce any permit or licence for possession of such bottles of liquor. The recovered bottles of liquor were taken into possession after drawing samples. Ruqa was sent to the police station for the purpose of registration of the FIR. Petitioner Pawan alias Golu alias Behra was arrested in FIR No.752 dated 6.11.2020, Police Station City, Sonipat and was also nominated in FIR No.749 dated 6.11.2020 and then in this FIR also. He was arrested in this case on 9.11.2020. Accused Amit Rathi was arrested in this case on

13.11.2020 and during investigation accused Ashok was also nominated and he was arrested on 14.11.2020 and recovery of two bottles of liquor mark Raseela Santra and Rs.1,500/- in cash was effected from him. After completion of investigation and other formalities challan against the accused has been filed in the Court. The petitioner/accused had approached the Courts of Sessions at Sonipat by moving application for regular bail but the same was dismissed by learned Sessions Judge, Sonipat.

5. Thereafter, the petitioner had knocked at the door of this Court twice as detailed above but was unsuccessful in getting the relief. Now the petitioner/accused has come to this Court for the third time praying for the same relief, which request is being opposed by the State counsel.

6. I have heard learned counsel for the parties besides going through the record.

7. When first petition for the regular bail filed by the petitioner was dismissed on 28.7.2021 i.e. about more than one year earlier, it was expected that the trial against the accused would be concluded in near future. However, as it transpires from the status report sent by Additional Sessions Judge, Sonipat, the trial is moving at a very slow pace inasmuch as only one PW i.e. ASI Azad Singh is said to have been examined so far. In that way, there is no likelihood of the trial being concluded in near future. Furthermore, several co-accused of the present petitioner have been granted concession of regular bail by this Court i.e. to accused Amit Khatri by accepting CRM-M-29423 of 2021(O&M) on 18.11.2021, copy

of order being Annexure P1; accused Satpal alias Happu by allowing CRM-M-17360 of 2022 on 4.5.2022, copy of order being Annexure P2; accused Sahil Rathi, who had filed petition for regular bail bearing CRM-M-23585-2022, which was accepted on 2.6.2022, copy of order being Annexure P3; accused Anil Malik by allowing his CRM-M-27669-2022 on 7.7.2022, copy of order being Annexure P4 and to accused Pawan alias Golu @ Behra by accepting CRM-M-16948 of 2022 on 3.8.2022, copy of order being Annexure P5.

8. The petitioner/accused Ashok Kumar is in custody since 14.11.2020 i.e. for a period of about 2 years. With the trial moving at a very slow pace and not likely to be concluded in near future, with five of his co-accused having been granted concession of regular bail, it would not be proper and appropriate to keep the petitioner/accused behind bars any longer and he deserves to be given concession of regular bail.

9. Under the circumstances, this petition for regular bail calls for acceptance, the same is allowed and the petitioner is ordered to be released on bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Sonipat, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses;
- (iii) he shall not indulge in any criminal activity;
- (iv) he shall join the investigation as and when directed by the Investigating Officer;
- (v) he shall not leave India without prior permission of the Court; and
- (vi) he shall surrender his passport before the Investigating Officer, if he has got one, otherwise to furnish affidavit in that regard.

10. The Court accepting bonds would ensure that sureties furnished are local having documentary proof of immovable properties in their names situated within jurisdiction of the Court of the value double the surety amount. Photographs of the sureties, attesting witnesses and the accused be got attached on the bonds and copies of the title deeds be also got attached with endorsement made on the original title deeds with regard to the said person having stood surety for the accused in this case.

11. In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

12. In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

28.9.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No