

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(235)

CRM-M-37283-2022 (O&M)

Date of decision: - 29.08.2022

Surinder Singh and another

....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Preetinder S. Ahluwalia, Advocate,
for the petitioners.

Mr. M.S. Bajwa, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No.43 dated 01.06.2022, under Sections 170, 171, 419, 465, 467, 468, 471 and 474 of the Indian Penal Code, 1860 and Sections 61(1) and 78(2) of the Punjab Excise Act, 1914, registered at Police Station Kheri Gandian, District Patiala.

Learned counsel for the petitioners has submitted that the petitioners have been in custody since 01.06.2022 and the investigation is complete and the challan has been presented and there are total 11 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. It is further submitted that the present case is triable by Magistrate and the liquor, which has been seized, has already

been confiscated and no further recovery is to be made from the present petitioners. It is also submitted that Sections 171, 419, 465, 471 and 474 IPC, which have been invoked in the present case, are bailable offences and even Section 78(2) of the Punjab Excise Act, 1914 provides for confiscation of case property and does not provide for any incarceration. It is contended that offence under Section 170 IPC is non-bailable and the maximum sentence is of two years or fine or both. Section 61(1) of the Punjab Excise Act, which is non-bailable, also carries sentence of 3 years or fine or with both. It is stated that in the present case, offences under Sections 467 and 468 are not made out, inasmuch as, there is no allegation of forgery of a Will, adoption deed, valuable security, etc. It is further stated that in the present case, offence under Section 420 is also not made out and thus, Section 468 would also not be attracted. It is also stated that all the witnesses are official witnesses, thus, the question of influencing or threatening them does not arise.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that recovery of 400 boxes of liquor, which were meant for sale in Chandigarh, has been effected from the petitioners in Punjab. It is stated that the petitioners were wearing fake ITPB force uniforms, although, they do not belong to the ITBP and also were carrying a fake identity card of ITPB police in the name of Sukhwinder Singh, who is stated to be the brother of petitioner No.2.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The petitioners have been in custody since 01.06.2022 and the investigation is complete and the challan has been presented and there are total 11 prosecution witnesses, out of whom, none have been examined and thus, the trial is likely to take time. All the said 11 witnesses are stated to be official witnesses and thus, the question of influencing or threatening them does not arise. Further, 400 boxes of liquor have already been confiscated and no further recovery is to be effected from the present petitioners. The case is triable by Magistrate and Sections 171, 419, 465, 471 and 474 IPC all are bailable offences and as far as Section 78(2) of the Punjab Excise Act is concerned, the same provides for confiscation of case property and does not provide for incarceration. Section 170 IPC is although non-bailable, but the maximum sentence stipulated is two years or fine or both. Section 61(1) of the Punjab Excise Act is also non-bailable, but maximum sentence is three years. The question whether offences under Sections 467 and 468 are made out or not in the present case, would be a matter of debate, which would be finally adjudicated during the course of trial.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

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

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.

Pending misc. application, if any, stands disposed of in view of the above-said order.

August 29, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No