

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(204)

CRM-M-47486-2021

Date of decision: - 02.05.2022

Sumit @ Shami

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajiv Kataria, Advocate,
and Ms. Deep Shikha Arora, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No.183 dated 05.11.2020, under Sections 272, 328, 420, 467, 468, 471 and 120-B IPC and Sections 3 & 61 of the Excise Act, 1914, registered at Police Station Moohana, District Sonipat.

On 15.11.2021, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR no.183, dated 05.11.2020, having been registered at Police Station Division ‘Moohana, District Sonapat, alleging therein commission of offences punishable under Sections 120-B/272/328/420/467/468 /471 of the IPC and Sections 3 and 61 of the Excise Act.

Learned counsel for the petitioner submits that the petitioner has been wholly falsely implicated, with him not named in the FIR and in fact what has been stated in the order of the learned Addl. Sessions Judge, Sonapat, dismissing a similar petition filed before that court, it has been erroneously stated that the petitioner also “used to do the work of affixing caps and wrappers on the bottles” of liquor other than adding flavor to spurious liquor.

He submits that as a matter of fact, the petitioner was only alleged of supplying such flavor and not actually adding it himself, and further it is actually not even the case of the prosecution that he was affixing caps and wrappers and therefore the question of procuring holograms from him, as were appearing on those wrappers, would not arise.

He further points to Annexure P-5 with the petition, which is seen to be a copy of a medical prescription etc. issued by one Tulip Hospital, Sonapat, stating that the petitioner has acute pancreatitis.

Notice of motion, with Mr. Neeraj Poswal, learned AAG, Haryana, accepting notice on behalf of the respondent State, on the asking of the court.

He submits that as per his instructions from ASI Jagdish, there are 17 cases registered against the petitioner, including therein offences punishable under the provisions of the Excise Act, as also under Section 304 of the IPC, though he does not have instructions as to whether he has been admitted to bail in the context of those cases or not.

At this stage, simply looking at the medical condition of the petitioner, as has been projected before this court, the petitioner is directed to join investigation within one week and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

A gazetted officer will file a reply to the petition, annexing

therewith a medical certificate from a Government hospital as regards the medical condition of the petitioner, with the petitioner to be taken to such hospital upon him joining investigation.

It is made obviously absolutely clear that this order has been passed only in the context of FIR no.183 dated 05.11.2020, registered at Police Station Moohana, District Sonapat, as is subject matter of this petition; and therefore if the petitioner has not been admitted to bail in the context of other cases registered against him, this order will not enure in the context of those cases at all.

Adjourned to 01.12.2021.

15.11.2021

**(AMOL RATTAN SINGH)
JUDGE"**

Learned counsel for the petitioner has submitted that in pursuance of the above-said order, the petitioner has joined the investigation. It is further submitted that the petitioner was not apprehended at the spot and has been implicated solely on the basis of disclosure statement of co-accused. It is also submitted that it is not the allegation against the present petitioner that he was either selling the liquor or manufacturing the same and the allegation is only that he was supplying such flavor and was not actually adding the same. It is argued that although, the petitioner is involved in some other cases, but this case be considered on its merits.

Learned counsel for the petitioner 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.”

Learned State counsel, on instructions from ASI Sanjiv Kumar, has submitted that the petitioner has joined the investigation and is not required for further investigation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 15.11.2021 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 15.11.2021 is ordered to be made absolute.

It is made clear that this order has been passed only in the context of FIR no.183 dated 05.11.2020, registered at Police Station Moohana, District Sonapat and thus, the present order would not enure any anticipatory bail or bail to the petitioner in other cases.

May 02, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No