

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

CRM-M No. 52422 of 2021

Date of Decision: 23.03.2022

Gurmail

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Ms. Neha Rana, Advocate,
for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General, Haryana

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition under Section 439 Cr.P.C., seeks grant of regular bail in case FIR No. 231 of 10.06.2021, which was registered against him, at Police Station Sadar Jind, District Jind, constituting therein offences under Section 25 of the Arms Act, and, under Sections 395, 450, 506 of the IPC.

2. The bail applicant-petitioner is stated to be suffering judicial incarceration since 17.09.2021.

3. The bail applicant – petitioner alongwith other co-accused is alleged to commit the offences (supra) at the crime site, inasmuch as, theirs with a common intent or joint mens rea, lifting from the complainant's liquor vend 12 crates of country-made liquor, and, also theirs looting therefrom cash worth Rs. 8,000/-.

4. The co-accused alongwith the present bail applicant-petitioner, preferred petitions respectively bearing CRM-M-25052-2021, CRM-M-28807-2021, CRM-M-40377-2021, CRM-M-43267-2021, and, CRM-M-40467-2021, before this Court, and thereons, this Court had proceeded to

admit, the bail petitioners therein, to regular bail.

5. The learned counsel for the petitioner has also submitted that one of co-accused, namely, Pardeep, who filed CRM-M-3302-2022, has also being admitted for regular bail, through an order made on 22.03.2022, by this Court.

6. Be that as it may, the learned State Counsel, has not been able to make any valid submission before this Court, that the incriminatory role as assigned to the petitioner, is variant or different or is of a nature graver than the role, as, becomes assigned to the bail petitioners in petitions (supra), and qua whom affirmative orders have been made, by the Co-ordinate Bench of this Court, in their apposite petitions, cast under Section 439 of the Cr.P.C.

7. Therefore, the petitioner is to be construed to be at par with the bail petitioners qua whom the above referred bail orders were pronounced by this Court, and, similar thereto treatment is to be meted to him.

8. Moreover, when all the relevant recoveries, become effected at the instance of the accused, to the IO concerned, and, also when it is stated by the learned State Counsel, on instructions, meted to him, by ASI Yashvir Kumar, Investigating Officer, that after completion of investigations, an affirmative report under Section 173 of the Cr.P.C. has been filed, before the learned Magistrate concerned, and, thereafter, the learned trial Judge concerned, has drawn the relevant charge(s) against all the accused including the petitioner.

9. Therefore, in the wake of above, and, keeping in view the fact that the petitioner is in custody since 17.09.2021, hence this Court does not deem it fit to order for any prolongation of the judicial incarceration of the

petitioner. Contrarily, it is deemed appropriate to admit to bail, the bail petitioner.

10. However, the learned State Counsel opposes the grant of bail to the bail applicant, on the ground that the bail applicant is an habitual offender, inasmuch, as he is involved in one other criminal case.

11. The afore made submission is benumbed, upon this Court, making stringent conditions upon the bail applicant, inasmuch as his making an undertaking before the learned trial Court, that he shall not re-indulge in any criminal activity, whereupon, on breach thereof, the benefit of regular bail, as granted to him shall become *ipso facto* annulled, leaving liberty to the Arresting Officer, to forthwith arrest him, and, to thereafter, produce the bail applicant before the learned Magistrate concerned, for appropriate directions, *vis-a-vis*, an order of judicial custody being made, upon him.

12. Consequently, with condition (*supra*), the instant petition is allowed, and the bail applicant – petitioner is ordered to be released from judicial custody, on his furnishing personal and surety bonds in the sum of ₹ 50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and/or not influencing prosecution witnesses, and, also his appearing before the trial Court concerned as and when he is required to be making his personal appearance unless validly exempted.

March 23, 2022

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**(SURESHWAR THAKUR)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>