

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M-54606-2021
Decided on :31.05.2022

Naresh @ Nesi

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Sandeep Kotla, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 745 dated 04.11.2020 under Sections 328, 272, 420, 467, 468, 471 of the Indian Penal Code, 1860 and Sections 72-A, 4-20 of the Excise Act registered at Police Station City, District Sonipat.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was neither named in the secret information nor named in the FIR and was not even apprehended at the spot. It is further submitted that the alleged recovery of 29 bottles of falcon santra, 7 bottles of marka Murthal, 9 half of santra falcon and 18 quarters of santra falcon had been effected from the co-accused Karambir. It is contended that the petitioner is sought to be implicated primarily on the basis of the disclosure suffered by the petitioner while he was in police custody in FIR No. 183 dated 08.11.2020 registered at Police Station Mohana, District

Sonipat. It is further contended that the petitioner is suffering from tuberculosis and his health is deteriorating with every passing day. It is contended that the petitioner has been in custody since 24.11.2020 and the challan in the present case has been presented and there are as many as 19 witnesses out of whom, only 3 witnesses have been examined and thus, the trial is likely to take time.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner is involved in 8 other cases also.

Learned counsel for the petitioner has rebutted the said argument and has 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*** 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 24.11.2020 and the challan in the present case has been presented and there are as many as 19 witnesses out of whom only 3 witnesses have been examined and the trial is likely to take time. The petitioner has neither been named in the secret information nor in the FIR, nor was arrested at the spot. The alleged recovery of liquor was effected from one Karambir Singh (co-accused). The petitioner is sought to be implicated on the basis of his disclosure statement allegedly suffered while in police custody in FIR No. 183 dated 08.11.2020 registered at Police Station Mohana, District Sonipat. The petitioner is stated to be suffering from tuberculosis and is stated to be not keeping in good health.

Keeping in view the abovesaid facts and circumstances, moreso the law laid down in ***Maulana Mohd.'s (supra)*** case, 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.

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.

(VIKAS BAHL)
JUDGE

May 31st, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No