

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50936-2022

Date of decision : 09.11.2022

Mandeep @ Setha

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Ajay Kadyan, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.0749 dated 06.11.2020 registered under Sections 304, 420, 328, 272, 467, 468, 471 IPC and Section 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill 2020) at Police Station Sonipat City, District Sonipat.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 23.12.2020 and the investigation is complete and the challan has already been presented and there are 56 witnesses out of which, only one witness has been examined and thus, the trial is likely to take time. It is further submitted that the petitioner was not named in the FIR and in the FIR it has been stated that the deceased Raju was a habitual drinker and had purchased the liquor from an unknown person. It is also submitted that the complainant had given a supplementary

Pawan @ Golu @ Behra and had given his affidavit in favour of Pawan @ Golu @ Behra and said Pawan @ Golu @ Behra has been granted regular bail by this Court vide order dated 23.03.2022 passed in CRM-M-1847-2022. It is stated that the petitioner has been implicated in the present case on the basis of disclosure statement of one Naresh Kumar which has been recorded in another FIR i.e., FIR no.183 dated 05.11.2020. It is further stated that no recovery has been effected from the present petitioner in the present case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner is involved in several other cases and is also involved in the business of supplying spurious liquor.

Learned counsel for the petitioner, in rebuttal, 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 while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. 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.”

This Court has heard learned counsel for the parties and has

The petitioner has been in custody since 23.12.2020 and the investigation is complete and the challan has already been presented and there are 56 witnesses and out of which, only one witness has been examined and thus, the trial is likely to take time. The petitioner was not named in the FIR and even as per the FIR, it has been stated by the complainant that the deceased Raju was a habitual drinker and had purchased the liquor from an unknown person. In the supplementary statement of the complainant which was recorded on 06.11.2020, it has been stated that his brother/ deceased had purchased the liquor from one Pawan @ Golu @ Behra and subsequently the complainant had given his affidavit in favour of Pawan @ Golu @ Behra and the said Pawan @ Golu @ Behra has been granted regular bail by this Court vide order dated 23.03.2022 passed in CRM-M-1847-2022. The petitioner has been implicated in the present case on the basis of disclosure statement of one Naresh Kumar recorded in another FIR and no recovery has been effected from the present petitioner in the present case.

Keeping in view the above said facts and circumstances and in view of the law laid down in *Maulana's* case (supra), 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.

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

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

November 09, 2022
Davinder Kumar

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