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

CRM-M-51421-2022

Date of decision : 01.12.2022

Mandeep @ Setha

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.746 dated 05.11.2020 registered under Sections 272, 328, 420, 467, 468, 471 of Indian Penal Code, 1860 and Sections 61, 72-A, 72-F 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 in the present case, the petitioner was not named in the FIR and two persons i.e. Sachin and Amit had been specifically named in the FIR and recovery of various bottles of Royal Stag etc. and also two bottles of local spurious liquor make Santra have been effected from Sachin and there are

allegations that Amit had run away from the spot. It is further submitted that the petitioner has been implicated in the present case, on the basis of his disclosure statement recorded in FIR No.183 dated 05.11.2020 at Police Station Mohana, District Sonipat and also on the basis of statement of the co-accused in said FIR No.183. It is contended that no recovery, in pursuance of the said disclosure statement, has been effected from the present petitioner in this case. It is further contended that co-accused of the petitioner namely Amit Khatri, who was specifically named in the FIR, has been granted the concession of bail by a Coordinate Bench of this Court vide order dated 18.11.2021 passed in CRM-M-29423-2021. It is argued that the petitioner is in custody since 23.12.2020 and investigation is complete and challan has been presented and there are 23 prosecution witnesses, out of which, only one prosecution witness has been examined as yet and thus, the conclusion of trial is likely to take time.

On the other hand, learned State Counsel, has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner is involved in several other cases. It is also submitted that there is also recovery of spurious liquor from the co-accused.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, 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.”

This Court has heard learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is in custody since 23.12.2020 and investigation is complete and challan has been presented and out of 23 prosecution witnesses, only one prosecution witness has been examined as yet and thus, the conclusion of trial is likely to take time and the petitioner was neither named in the FIR nor any recovery was effected from him. Amit Khatri, who was specifically named in the FIR, has been granted the concession of bail by a Coordinate Bench of this Court vide order dated 18.11.2021 passed in CRM-M-29423-2021 and it is Sachin, from whom, the recovery has been effected and the petitioner has been implicated in the present case on the basis of his disclosure statement in another case and even after the said disclosure statement, no recovery has been effected from the present petitioner in the present FIR.

Keeping in view the abovesaid facts and circumstances as well as law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra), the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, 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 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 an 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 application.

01.12.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**