

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-52092-2022

Date of decision : 17.11.2022

Mandeep @ Setha

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

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

Mr. Gurbir S. Dhillon, 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.752 dated 06.11.2020 registered under Sections 420, 467, 468, 471, 328, 272 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 25.12.2020 and the investigation is complete and the challan has already been presented and there are 33 witnesses, out of which, 13 witnesses have been examined and thus, the trial is likely to take time. It is submitted that the petitioner is not named in the FIR and no recovery has been effected from the present petitioner and as per the FIR, only one Pawan @ Golu @ Behra has been named and at the time of raid, it was said Pawan @ Golu @ Behra who was arrested and from him,

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the disclosure statement of the petitioner in FIR no. 183, he was one of the persons who was manufacturing the spurious liquor. It is submitted that the petitioner is involved in several other cases.

Learned counsel for the petitioner, in rebuttal, has submitted that even subsequent to the said disclosure statement, no recovery has been effected from the present petitioner and 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 perused the paper book.

The petitioner has been in custody since 25.12.2020 and the investigation is complete and the challan has already been presented and there are 33 witnesses, out of which, 13 witnesses have been examined and thus, the trial is likely to take time. The petitioner is not named in the FIR and no recovery has been effected from the present petitioner. As per the

Behra from whom, 14 bottles of spurious liquor was recovered.

Keeping in view the above said facts and circumstances, 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 17, 2022
Davinder Kumar

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