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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5502-2021 (O&M)
Date of Decision: 25.05.2023

Malkit Singh and another

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

In the instant petition, the petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 109 dated 30.07.2020, under Sections 304 and later on added Sections 302, 201, 120-B IPC and 61 of the Excise Act registered at Police Station City Tarsikka, District Amritsar Rural.

It is worth mentioning that vide order dated 18.04.2023, it was observed that petitioner No. 1- Malkit Singh has died during the pendency of the petitioner, therefore, the petition qua petitioner No. 1 stands dismissed as infructuous.

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Learned counsel for petitioner No. 2 Rajwinder Singh (who is none other than the son of Balwinder Kaur, main accused named in the FIR) contend that the petitioner No. 2 is in custody since 26.08.2020 and has been falsely implicated in the present case as neither he is named in the FIR nor is found to be present with the deceased at the time of occurrence. He further submits that the petitioner was implicated in the present FIR only on the basis of disclosure statement made by the co-accused. It is also argued that neither any specific role has been attributed to the petitioner nor the deceased purchased the spurious liquor from the petitioner. Learned counsel for the petitioner claims parity with the main accused Rajiv Joshi, who has been granted regular bail by the Co-ordinate Bench vide order dated 25.01.2021 passed in CRM-M-35989-2020. He submits that no recovery has been effected from the petitioner and the challan stands presented and charges have been framed and out of total 169 prosecution witnesses, 02 witnesses have been examined till date and the conclusion of trial will take sufficient time, therefore, it is prayed that the petitioner be enlarged on bail.

In pursuance to the order dated 18.05.2023, the respondent-State had sought time to furnish fresh custody certificate along with details of other six cases/FIRs. A similar request has been made even today and no custody certificate has been furnished.

Learned counsel for the petitioner refers to the earlier custody certificate filed by the State counsel, wherein it is mentioned that there is no other case pending against petitioner No.2. He submits that this fact has

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been duly verified by him from the petitioner that there is no other case pending against him.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offences alleged against the petitioner No.2 are serious in nature. However, he does not dispute the fact that the challan stands presented and the co-accused has already been allowed regular bail.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 26.08.2020.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further since the co-accused has been allowed bail and challan stands presented and out of total 169 prosecution witnesses only 02 have been examined till date and trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case and in view of long custody and on parity of petitioner with the co-accused, it is ordered that the petitioner No. 2 be released on regular bail subject to furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

- 1. he will appear before the Court on each and every date of hearing;*
- 2. he will not give any threat or intimidation to the prosecution witnesses;*
- 3. he will not indulge in any criminal activity.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner do not abscond and interfere in the trial.

In case the petitioner violate any terms and conditions on which the bail has been granted to him , the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed accordingly.

(DEEPAK MANCHANDA)
JUDGE

25.05.2023
seema

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