

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-11317-2023
Date of decision : 25.04.2023

Ajit alias Jita and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Rakesh Kumar Lathwal, Advocate
for the petitioners.

Ms.Upasana Dhawan, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR no.746 dated 05.11.2020 registered under Sections 61, 72-F of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Sections 272, 328, 420, 467, 468, 471, 120-B IPC and Sections 4, 20, 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) have been added later on) at Police Station City-Sonipat, District Sonipat, Haryana.

2. Learned counsel for the petitioners has submitted that the petitioners have been in custody since 14.01.2021 and there are 23 witnesses, out of which, only 3 witnesses have been examined and thus, the trial is likely to take time. It is further submitted that the previous bail petition of the petitioners was dismissed as withdrawn on 29.11.2022 with liberty to file a fresh petition after giving full and better particulars and the present petition has been filed after giving full and better particulars and

petitioners. It is further submitted that the petitioners were 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. along with two bottles of local spurious liquor of make Santra have been effected from co-accused Sachin and there are allegations that co-accused Amit had run away from the spot. It is stated that the petitioners have been implicated in the present case, on the basis of their 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 further stated that no recovery, in pursuance of the said disclosure statement, has been effected from the present petitioners in this case. It is contended that co-accused of the petitioners 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 further contended that co-accused of the petitioners namely Mandeep @ Setha, who is similarly placed as the present petitioners, has already been granted the concession of regular bail by this Court vide order dated 01.12.2022 passed in CRM-M-51421-2022.

3. On the other hand, learned State counsel, on instructions from ASI Balwan, has opposed the present petition for regular bail and has submitted that that the petitioners are involved in several other cases. It is also submitted that recovery of spurious liquor has been effected from the co-accused.

4. Learned counsel for the petitioners, 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

present case are to be seen and the bail application of the petitioners cannot be rejected solely on the ground that the petitioners are 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.”

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

6. In the present case, both the petitioners have been in custody since 14.01.2021 and the investigation is complete and the challan has been presented and out of 23 prosecution witnesses, 3 witnesses have been examined and thus, the trial is likely to take time and neither the present petitioners were named in the FIR nor any recovery has been effected from them. Co-accused 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 was Sachin, from whom, the recovery had been effected in the present case and the petitioners have been implicated in the present case on the basis of their disclosure statement suffered in another case and even after the said disclosure statement, no recovery has been effected from the present petitioners in the present FIR.

7. Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the

required in any other case.

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

9. 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

April 25, 2023
Davinder Kumar

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