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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 11256-2023 (O&M)

Date of Decision: 19.05.2023

Ajit alis Jita and another

... Petitioners

V/s.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Rakesh Kumar Lathwal, Advocate
for the petitioners.

Mr. Karan Garg, AAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 760 dated 11.11.2020, under Sections 72-A of Punjab Excise Act, 1914 and Sections 272,304, 328, 420 IPC (final charge sheet submitted in Sections 120-B, 272,304, 328, 420 467, 468, 471 IPC and 61/72-A of Punjab Excise Act, 1914) registered at Police Station Sonipat City, District Sonipat, Haryana.

Learned counsel for the petitioners contends that the petitioners are in custody since 25.12.2020 and have not been named in the present FIR rather has been implicated in the present case only on the basis

of disclosure statement made by the co-accused Mandeep alias Setha. It is
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further submitted that the other co-accused named in the present FIR Anil Malik, Sandeep alias Mama, Mohit alias Moti and Amit Rathi have already been allowed regular bail by the Co-ordinate Bench (Annexure P-1 to P-3). Learned counsel for the petitioner also claims parity with other co-accused namely Sahil Rathi, Sumit Rathi, Amit Khatri and Amit Khatri, who have been granted concession of regular bail vide separate orders dated 20.02.2023 passed by this Court. He submits that no recovery has been effected from the petitioner and the challan stands presented and out of total 40 prosecution witnesses, only 04 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.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioners, while submitting that the offences alleged against the petitioners are serious in nature and they are habitual offenders as they are involved in other case as well. However, he does not dispute the fact that the challan stands presented and the co-accused have already been allowed regular bail.

Learned counsel for the petitioners has rebutted the said argument while submitting that though other FIRs are pending against the petitioners yet as per settled law laid down by the Apex Court in ***Maulana Mohd. Amir Rashadi vs. State of U.P. and Others reported 2012 (2) SCC 382 and Prabhakar Tewari vs. State of U.P. And another 2020 (11), SCC 648***, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application(s).

I have heard learned counsel for the parties.

Petitioners are in incarceration since 25.12.2020.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioners, they would hamper the course of free and fair trial. Further since the co-accused has been allowed bail and challan stands presented and trial would take sufficient time, no useful purpose would be served in keeping the petitioners behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case and in view of law laid down in ***Maulana's case*** (supra) and on the basis of parity of petitioners with the co-accused, it is ordered that the petitioners 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. *they will appear before the Court on each and every date of hearing;*
2. *they will not give any threat or intimidation to the prosecution witnesses;*
3. *they 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. The petitioners be asked to surrender their passport.

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

In case the petitioners violate any terms and conditions on which the bail has been granted to them, the prosecution would be entitled to

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apply for cancellation of their bail.

The petition is allowed accordingly.

(DEEPAK MANCHANDA)
JUDGE

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