

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

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**CRM-M-21258-2023
Date of Decision: 04.05.2023**

Ajit alias Jita and another**..... Petitioners**

versus

State of Haryana**..... Respondent****CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. R.K. Lathwal, Advocate for the petitioners.

Ms. Upasna Dhawan, AAG, Haryana.

VIKAS BAHL, J (ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No. 749 dated 06.11.2020 under sections 304, 420 IPC (Section 272, 328, 467, 468, 471 IPC added later-on) and Section 72-A, 4, 20 of Punjab Excise Act, 1914, registered at police station city-Sonipat, District Sonipat.

Learned counsel for the petitioners have submitted that the petitioners have been in custody since 14.01.2021 and the investigation is complete and the challan has already been presented and there are 56 witnesses out of which, 11 witnesses have been examined and thus, the trial is likely to take time. It is submitted that the previous bail application of the petitioners was dismissed as withdrawn on 21.11.2022 with liberty to file a fresh one after giving full and better particulars. It is further submitted that the petitioners were not named in the FIR and in the FIR it has been stated that the deceased Raju

was a habitual drinker and that he had purchased the liquor from an unknown person. It is also submitted that the complainant had given a supplementary statement to the effect that the said deceased had purchased the liquor from Pawan @ Golu @ Behra and then subsequently had given his affidavit in favour of Pawan @ Golu @ Behra and said Pawan @ Golu @ Behra has been granted the concession of regular bail by this Court vide order dated 23.03.2022 passed in CRM-M-1847-2022. It is stated that the petitioners have been implicated in the present case on the basis of disclosure statement of one Naresh Kumar which had been recorded in another FIR i.e., FIR no.183 dated 05.11.2020. It is further stated that no recovery has been effected from the present petitioners in the present case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioners are involved in several other cases and also involved in the business of supplying spurious liquor. She has further submitted that in the present case, petitioner no. 1 had contributed Rs. 1 lac in the manufacturing of spurious liquor and petitioner no. 2 had contributed Rs. 1.50 lacs for the same.

Learned counsel for the petitioners, in rebuttal, 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 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.”

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

The petitioners have been in custody since 14.01.2021 and the investigation is complete and the challan has already been presented and there are 56 witnesses and out of which, 11 witnesses have been examined and thus, the trial is likely to take time. The petitioners were not named in the FIR and even as per the FIR, it has been stated by the complainant that the deceased Raju was a habitual drinker and had purchased the liquor from an unknown person. In the supplementary statement of the complainant which was recorded on 06.11.2020, it has been stated that his brother/ deceased had purchased the illicit liquor from one Pawan @ Golu @ Behra and subsequently the complainant had given his affidavit in favour of Pawan @ Golu @ Behra and the said Pawan @ Golu @ Behra has been granted the concession of regular bail by this Court vide order dated 23.03.2022 passed in CRM-M-1847-2022. The petitioners have been implicated in the present case on the basis of disclosure statement of one Naresh Kumar recorded in another FIR and no recovery has been effected from the present petitioners in the present case.

Keeping in view the above said facts and circumstances and in view of the law laid down in ***Maulana's*** case (supra), the present petition is allowed and the petitioners are 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 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.

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.

04.05.2023
manoj

(VIKAS BAHL)
JUDGE

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