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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28513-2022 (O&M)

Date of Decision: 18.04.2023

Shamsher Singh

... Petitioner

V/s.

State of Punjab

... Respondent

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

Present : Mr. Amit Arora, Advocate
for the petitioner.
Mr. Gurdarshan Singh Sidhu, AAG, Haryana
for the respondent-State.

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 Section 61 of the Excise Act and offences under Section 304 IPC stand deleted and offences under Sections 302, 201, 120-B, 326, 328, 379, 411 IPC added later on, registered at Police Station City Tasrika, District Amritsar Rural.

Learned counsel for the petitioner contend that the petitioner is in custody since 19.07.2020. He submits that the petitioner has been falsely implicated in the present case as neither he has been named in the FIR nor was present with the deceased at the time of occurrence. The allegations qua the petitioner are that he supplied the spurious liquor to one

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Gobinda, which was supplied to him by one Avtar Singh, who purchased it from one Rajiv Joshi. 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 rather he has no concern with the alleged offence as no evidence is available on record to connect him with the offence. 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.

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 are serious in nature and he is a habitual offender as he is involved in other case as well. However, he does not dispute the fact that the challan stands presented and the co-accused has already been allowed regular bail.

Learned counsel for the petitioner has rebutted the said argument while contending that out of those cases mentioned in the custody certificate, the petitioner is on bail in four of them and has been acquitted in one case and have also submitted that though other FIRs are pending

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against the petitioner 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.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 19.07.2020.

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 law laid down in ***Maulana's case*** (supra) and on the basis of long custody and on parity of petitioner with the co-accused, it is ordered that the petitioner 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

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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

18.04.2023
seema

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