

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219 (5 cases)

Date of decision : 27.02.2023

(i) CRM-M-50288-2022

Sachin @ Bachi Petitioner

V/S

State of Haryana Respondent

(ii) CRM-M-58114-2022

Sandeep @ Mama and another Petitioners

V/S

State of Haryana Respondent

(iii) CRM-M-55480-2022

Sumit Rathee Petitioner

V/S

State of Haryana Respondent

(iv) CRM-M-27753-2022

Anil Malik Petitioner

V/S

State of Haryana Respondent

(v) CRM-M-52322-2022

Sumit @ Shami Petitioner

V/S

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Parveen Sharma, Advocate
for the petitioner(s) in CRM-M-50288-2022 and
CRM-M-55480-2022.

Mr. Pawan Kumar Hooda, Advocate
for the petitioner in CRM-M-58114-2022.

Mr. Satnam Singh Sishodia, Advocate
for the petitioner in CRM-M-27753-2022.

Ms. Sunita Punia, Advocate for
Mr. Rajiv Kataria, Advocate
for the petitioner in CRM-M-52322-2022.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

This order will dispose of the above mentioned petitions as
the same arisen out of the common FIR.

The petitioners have filed the present petitions under
Section 439 of the Code of Criminal Procedure, 1973 for grant of
regular bail in case FIR No.749 dated 06.11.2020 registered under
Sections 304 and 420 of the Indian Penal Code, 1860 and Section 72A
of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (to
which Sections 272, 304-A, 328, 467, 468, 471 of the IPC and Section
61-4-20 of the Punjab Excise Act were added and Section 304 of the
IPC was deleted later on) at Police Station City Sonipat, District
Sonipat.

The above-said FIR was registered on the complaint made
by complainant-Rajan alleging that on 01.11.2020 his younger brother

Raju, who was a labourer, took illegal liquor from an unknown person and consumed the same. Due to which suddenly, his condition was deteriorated and he was admitted in the hospital. During treatment his brother-Raju was died on 06.11.2020.

Learned counsel for all the petitioners have submitted that the petitioners have been falsely implicated in the present case. The petitioners were not named in the FIR which was recorded on the statement of complainant-Rajan. On the basis of supplementary statement made by complainant-Rajan, accused-Pawan @ Golu @ Behra, who sold the illicit liquor to deceased-Raju, was arrested. Accused-Pawan @ Golu @ Behra has made a disclosure statement on the basis of which the present petitioners were implicated in the present case and were thereafter, arrested. The disclosure statement made before the police is inadmissible in evidence. The complainant examined as PW-1 and in his examination-in-chief, the complainant has stated that his brother died due to stomach ache and accused persons had not committed any offence and accordingly, the complainant was declared hostile.

It is further submitted that accused Pawan @ Golu @ Behra, who was the person from whom deceased-Raju purchased the liquor, has already been granted the concession of regular bail by this Court vide order dated 23.03.2022 passed in CRM-M-1847-2022. Similarly placed co-accused Amit Khatri and Amit Rathee have also been granted regular bail by this Court vide order dated 01.09.2022 passed in CRM-M-29927-2022 and CRM-M-30381-2022, respectively.

The petitioners are in custody since their arrest. The Investigation Officer of the present case has also been died. There are total 56 prosecution witnesses and most of them are yet to be examined. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioners in custody. Therefore, the petitioners may be released on regular bail.

On the other hand learned State counsel has vehemently opposed the present petitions for grant of regular bail and submits that the petitioners are also involved in other cases and are habitual offenders.

I have heard learned counsel for the parties and gone through the paper-book.

It is not in dispute that in the present FIR, which had been got registered by the complainant-Rajan, the petitioners were not named as accused and have been implicated solely on the basis of the disclosure statement of co-accused Pawan @ Golu @ Behra. The complainant has been examined as PW-1 who has not supported the case of the prosecution and had been declared hostile. Co-accused Pawan @ Golu @ Behra, who sold the liquor to deceased-Raju and co-accused Amit Khatri and Amit Rathee have already been granted the concession of regular bail by the Coordinate Bench of this Court. The petitioners are stated to be in custody since their arrest and out of 56 prosecution witnesses, most of them are yet to be examined, thus, the trial is likely to take time to conclude.

Keeping in view the above-said facts and circumstances of

the case and parity with co-accused Amit Khatri and Amit Rathee who have already been granted regular bail by this Court, I am of the considered view that the petitioners deserve the concession of regular bail.

Accordingly, the present petitions are allowed and all the petitioners are ordered to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

However, 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 cases which are only for the purpose of adjudicating the present bail petitions.

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.

27.02.2023

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No