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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 52346-2022 (O&M)

Date of Decision: 02.03.2023

Sumit alias Shami

... Petitioner

V/s.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Aman Joon, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, 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. 763 dated 12.11.2020, under Sections 120-B, 272, 304, 328, 420, 467, 468, 471 IPC and Section 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) registered at Police Station City Sonipat, District Sonipat, Haryana.

Learned counsel for the petitioner contend that the petitioner

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is in custody since 06.04.2022. He submits that the petitioner has been implicated in the present case on the basis of disclosure statement of co-accused and has no concern with the preparation or supply of fake liquor as alleged. Learned counsel for the petitioner claims parity with the similarly situated accused Amit Rathi, who has been allowed regular bail by the Co-ordinate Bench on 29.09.2022 vide CRM-M-41012-2022 in FIR No. 760 dated 11.11.2020 under Sections 272, 304, 328, 420 IPC, 1860 and Section 72-A of the Punjab Excise Act and subsequently added Sections 467, 468, 471, 120-B IPC registered at Police Station City Sonipat, District Sonipat and other similarly situated accused namely Anil Malik, who has also been allowed regular bail by the Co-ordinate Bench on 11.07.2022 vide CRM-M-28310-2022. He submits that no recovery has been effected from the petitioner and the challan stands presented and out of total total 50 witnesses, none has been examined till date and the conclusion of trial will take sufficient time, therefore, it is prayed that the petitioner be enlarged on bail.

Reply has been filed by the respondent-State and the same is taken on record. Per contra, learned counsel appearing on behalf of respondent-State, on instructions from ASI Parvind, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature and he is a habitual offender as he is involved 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.

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Learned counsel for the petitioner has rebutted the said argument and submitted that though other FIRs are pending against the petitioner yet as per settled law passed in ***Maulana Mohd. Amir Rashadi vs. State of U.P. and Others reported 2012 (2) SCC 382***, 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 06.04.2022.

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 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 parity of petitioner with the co-accused, it is ordered that the petitioner be released on regular bail subject to him furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

1. *he shall appear before the Court on each and every date of hearing;*
2. *he shall not give any threat or intimidation to the prosecution witnesses;*
3. *he shall not indulge in any criminal activity.*

The Court accepting bonds would ensure that two local sureties

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who are financially sound having immovable properties within jurisdiction of the district furnish the bonds. The petitioner be asked to surrender his passport.

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

In case the petitioner violates 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

02.03.2023
seema

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