

CRM-M-51102-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210

CRM-M-51102-2023

Date of decision: 13.10.2023

Baljinder Singh

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vipul Jindal, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (Oral)

Following the denial of bail by the learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No. 222 dated 06.06.2023, registered under Sections 420, 467, 468, 120-B of the Indian Penal Code and Section 61 of the Punjab Excise Act, 1914 at the Chandut Police Station in Palwal.

2. An FIR was registered against the petitioner on June 06, 2023, based on secret information received by HC Samim Khan. Accordingly, a barricade was erected near the KMP toll plaza on Aligarh Road. The petitioner was seen driving a container and was coming from the Ghaziabad side. He was signaled to stop, but he tried to flee. However, with the help of police officials, the petitioner was apprehended. Upon inspection, 1050 boxes of liquor were recovered from the container. The petitioner was carrying the same without any permit or document. After following due procedure, the liquor was seized, and the petitioner, Baljinder Singh, was taken into custody and has remained incarcerated since then.

CRM-M-51102-2023

3. First and foremost, the learned counsel for the petitioner states that the petitioner was hired by Rohit Rana, the owner of the truck, and it was under his instructions that the consignment was being transported in the truck by the petitioner. Being an illiterate person, he has no knowledge of the compliance with the Excise Act, and the responsibility for obtaining the permit rested with the owner of the truck. The petitioner was simply carrying out these instructions and was not aware of the material being transported in the vehicle.

3.1. Furthermore, the petitioner's counsel asserts that there is no substantial evidence against the petitioner. The petitioner had no involvement in the alleged recovery of liquor. From the allegations outlined in the FIR, it is argued that no case can be made against the petitioner, and the prosecution's narrative is an attempt to falsely implicate him.

3.2. The petitioner's counsel also argues that the petitioner was arrested on June 06, 2023. He further asserts that the petitioner does not require further custodial interrogation. There is no indication that the petitioner would tamper with evidence or influence prosecution witnesses. The petitioner maintains their innocence and claims to have been falsely implicated in the case.

4. On the other hand, learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that huge quantity of liquor was recovered from the possession of the petitioner while he was transporting the same. He asserts that it is highly unbelievable that petitioner was not aware of the fact that liquor is being transported in the vehicle.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, on instructions from ASI Ravinder, learned State counsel informs that the challan was filed and charges are

CRM-M-51102-2023

yet to be framed. The investigation regarding the petitioner is complete, and he is thus not required for custodial interrogation. At this stage, the allegations against the petitioner are subject to trial. Of the ten prosecution witnesses, none has been examined so far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since June 06, 2023, for more than 04 months

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. The petitioner is stated to be aged 52 years old man and is driver by profession. His continued incarceration may rendered him jobless forever. As a responsible family man with fixed abode, the petitioner is unlikely to pose a flight risk or evade trial proceedings.

9. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

11. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the

CRM-M-51102-2023

limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 13, 2023
Ajay

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