

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

1. CRM-M-53088-2022

Anil MalikPetitioner

versus

State of Haryana Respondent

2. CRM-M-55204-2022

Sumit RatheePetitioner

versus

State of HaryanaRespondent

Date of decision : 17.01.2023

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Satnam Singh Sishodia, Advocate (in CRM-M-53088-2022)
Mr. Parveen Sharma, Advocate (in CRM-M-55204-2022)
for the petitioner(s).

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

This order shall dispose of two petitions praying for grant of regular bail arising out of the same FIR bearing No.748 dated 06.11.2020, under Sections 420, 467, 468, 471, 120-B, 269 and 273 of IPC and Section 72-A of The Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020), registered at Police Station City Sonipat, District Sonipat.

As per the facts of the case, the FIR in this case was lodged by Inspector Rampal wherein it was alleged that he along with the police staff had arrived at liquor store/theke for checking. On inspection, in the presence of salesman Parvesh Kumar, recovery of 45 boxes of country made liquor was effected from theke without any pass or permit. The

contractor of theka/liquor vend Satpal committed offence by keeping spurious liquor with genuine marka marked in a fraudulent manner. Hence, request was made to take legal action against the culprits. On the basis of complaint, formal FIR was lodged and investigation commenced. During investigation, co-accused disclosed about the complicity of the present petitioners and thus, petitioner-Anil Malik was arrested on 15.03.2022 and Sumit Rathee was arrested on 23.05.2022. Accused-Anil Malik approached the Court of learned Additional Sessions Judge, Sonipat praying for grant of regular bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide his order dated 07.10.2022. Similarly, accused-Sumit Rathee approached the Court of learned Additional Sessions Judge, Sonipat praying for grant of regular bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide his order dated 16.11.2022. Aggrieved by the same, both the petitioners have approached this Court by way of filing the present petitions.

It has been contended by counsel for the petitioners that the petitioners have been falsely implicated in these cases. It has been submitted that the recovery of the alleged illicit liquor had been effected from co-accused Parvesh Kumar and the petitioners have no role whatsoever in the same. He further submits that the name of the petitioners have been surfaced in this case on the basis of disclosure statement made by co-accused which is not admissible. To buttress their arguments, it has been submitted that similarly situated co-accused namely, Amit Rathee, Amit Khatri and Sahil Rathee have already been enlarged on bail by this Court. They submit that the investigation is already complete and after

framing of the charge, evidence has also been recorded. They have

submitted that though the petitioners are facing prosecution in other 09 cases, however, the same are registered on the basis of disclosure statement of co-accused and thus, their false implication is writ large. They have submitted that the case of the petitioners is at par with the co-accused who are already granted bail and thus, the petitioners deserve to be granted bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioners. He has submitted that there are specific allegations against the petitioners. He submits that during investigation, complicity of the petitioners have been established. He submits that there are 16 other cases against Sumit Rathee and 13 other cases against Anil Malik. He has submitted that out of 41 prosecution witnesses, 12 witnesses have been examined.

I have heard counsel for the parties and perused the record. It is evident that both the petitioners have been named in the present case on the basis of disclosure statement of co-accused recorded during investigation. It has not been denied by learned State counsel that similarly situated co-accused have already been enlarged on bail by this Court. It has been argued that though there are other cases as well against the petitioners but the same are registered on the basis of disclosure statement of co-accused only.

The veracity of the allegations and counter allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. This Court would refrain itself from commenting anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioners

succeed in making out a case for grant of regular bail. Accordingly, the

present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

Photocopy of this order be placed on the file of connected case.

17.01.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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