

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

**CRM-M No.46861 of 2019 (O&M)
Date of Decision: 24.01.2023**

Raj Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sanjiv Kumar Aggarwal & Mr. Ojas Bansal, Advocates
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J.

Second petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.121 dated 27.03.2019, under Section 188 of the Indian Penal Code, 1860 (Sections 409, 420, 120-B, IPC added later on) and Section 61 of the Punjab Excise Act, 1914, registered at Police Station Sadar Thanesar, District Kurukshetra, Haryana.

2. Allegations are that on 26.03.2019, HC Balwinder Singh was on secret duty for surveillance of crime in the area of Police Station Sadar Thanesar. When he reached near Jindal Chowk, an informer met him and gave secret information that one Sandeep Kumar has kept lots of boxes of English

Liquor in white Bags in the room of one house. ASI Ramesh along with other police officials reached at Jindal Chowk in a private vehicle. Thereafter, they caught aforesaid Sandeep Kumar and white bags consisting of 8728 quarters of English Liquor of different brands were recovered, which were in the violation of orders of District Deputy Commissioner, Kurukshetra because at that time, the sale of liquor was banned in the area.

Although, petitioner was not named in the said FIR; but accused Sandeep Kumar stated in his disclosure statement that he purchased 4128 quarters of English Liquor from petitioner-Raj Kumar, who was posted as MHC in Police Station Sadar, Thanesar.

3. This Court, on 10.12.2019, granted interim bail to the petitioner in the following manner:-

“CRM No.35835 of 2019

Heard.

Application is allowed as prayed for, subject to all just exceptions. Annexure P-5 is taken on record.

Registry to do the needful.

Main cases (O&M)

Short affidavit of Astha Modi, Superintendent of Police, Kurukshetra filed by the learned State counsel, today in Court, is taken on record. A copy thereof has been supplied to the counsel opposite.

Registry to do the needful.

Learned State counsel seeks more time to have instructions in the matter, in terms of order dated 07.11.2019.

On his request, adjourned to 31.01.2020.

In the meanwhile, the petitioner shall be released on interim bail, to the satisfaction of learned trial Court/Duty Magistrate, concerned, till the next date of hearing.”

4. Thereafter, on 30.11.2022, following order was passed by this Court:-

“In compliance of previous order, affidavits dated 25.11.2022 & 29.11.2022 of Ram Dutt, DSP, Kurukshetra (in both petitions) and affidavit dated 16.11.2022 of Ashok Kumar Meena, Excise and Taxation Commissioner, Haryana (in CRM-M-51484-2019) have been filed. The same are taken on record. Copies thereof supplied to the opposite side.

Learned Counsel for the petitioner(s) seek time to go through the aforesaid affidavits.

Posted on 24.01.2023.

Learned State Counsel is requested to visit the District Ambala and submit a report as to whether Effluent Treatment Plants (ETPs) depicted in communication dated 24.08.2022 (R-1) are actually in operation?

Let the report be submitted within six weeks.

Till the next date of hearing, interim order(s) in respective case(s) to continue.

Photocopy of this order be placed on the connected case(s).

5. In pursuance of aforesaid order, learned State Counsel has submitted report dated 16.01.2023 along with Inspection Form A-1 (colly.). The same is taken on record.

6. Perusal of the aforesaid report reveals that learned State Counsel after devoting sufficient time came to the conclusion that out of total 83 Effluent Treatment Plants (ETPs), 08 were not in operation. Report also reveals that some of the premises were found to be locked and ultimately, it is recorded that 69 Units were in operation.

7. Be that as it may, it has come on record that Effluent Treatment Plants (ETPs) were installed and only few are not working or found closed; but as noticed above, out of total 83 in Ambala District, 69 are in operation.

8. In view of the above, this report is accepted, with a rider that concerned quarter i.e. Pollution Control Board shall look into the matter and to take further necessary action in accordance with law.

9. Apart that, learned State Counsel has apprised the Court that petitioner is regularly appearing before the Court below and there is no allegation(s) that he has misused the concession of interim bail in any manner. Also acknowledged that there is no other criminal case pending against the petitioner.

10. In such a scenario, sending the petitioner in custody at this stage would not serve any purpose.

11. Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 10.12.2019, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

13. The above observations may not be construed as an expression of opinion on the merits of the case.

14. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

15. The efforts made by learned State Counsel are really appreciated.

16. Disposed off accordingly.

January 24th, 2023
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(MAHABIR SINGH SINDHU)
JUDGE

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