

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-55659-2022

Date of decision : 27.04.2023

Amit Rathee

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Parveen Sharma, Advocate
for the petitioner.

Ms.Upasana Dhawan, AAG, Haryana

VIKAS BAHL, J.(ORAL)

1. This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.747 dated 05.11.2020 registered under Sections 420, 467, 468, 471 IPC and Section 61 of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) [Sections 328, 272, 120-B IPC and Section 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) added lateron] at Police Station City Sonipat.

2. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 19.11.2020 and the investigation is complete and challan has been presented and there are 26 witnesses, out of which, none have been examined and thus, the trial is likely to take time. It is submitted that the first bail application of the petitioner was dismissed as withdrawn at that stage on 12.05.2022 and the second bail petition was

after giving full and better particulars and thus, in fact the present petition is the second bail petition of the present petitioner. It is further submitted that even after the aforesaid dates, sufficient time has elapsed and the trial has not made any progress as no witness has been examined till date. It is argued that the petitioner is not named in the FIR and Ronak and Hemant have been specifically named in the FIR and it is said Ronak and Hemant, who were apprehended at the spot and from whom liquor bottles including spurious liquor bottles were recovered and said Ronak as well as Hemant have already been granted the concession of regular bail by the trial Court vide order dated 08.08.2022 and 12.11.2021 respectively. It is stated that the case of the petitioner is on a better footing than that of the said co-accused persons Ronak and Hemant and the petitioner is involved in the present case only on the basis of disclosure statement of said Ronak.

3. Learned State counsel, on the other hand, on instructions from ASI Jasbir, has submitted that as per the statement of the said co-accused Ronak, the present petitioner is involved with the manufacturing and selling of spurious liquor and recovery of two bottles of *Rasila Santra* along with Rs.3000/- in cash has been effected from the present petitioner. It is further submitted that the petitioner is involved in several other cases and is a habitual offender.

4. Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in "***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***", reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other

hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

5. This Court has heard learned counsel for the parties and has perused the paper book.

6. Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 19.11.2020 and out of 26 witnesses, none have been examined and thus, the trial is likely to take time and the petitioner was not named in the FIR and the co-accused persons Ronak and Hemant, who were specifically named in the FIR and were apprehended at the spot with the liquor bottles including spurious liquor bottles have already been granted regular bail by the Additional Sessions Judge, Sonipat vide orders dated 08.08.2022 and 12.11.2021 and in view of the law laid down in **Maulana's** case (supra), the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

7. However, it is made clear that in case, any act is done by the petitioner 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 petitioner.

8. 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 case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

April 27, 2023
Davinder Kumar

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