2024:PHHC:089681

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

217 **CRM M-8640 of 2024 (O&M)**
Date of Decision: 17.07.2024

Amit Bansal ...Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Keshavam Chaudhri, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has the second petition under Section 439 of the Cr.P.C. with a prayer to grant him regular bail in case FIR No.1167 dated 26.11.2018 registered under Sections 114, 406, 409, 419, 420, 465, 467, 468, 471 and 120-B IPC at Police Station City Sirsa, District Sirsa.

2. The FIR in the present case was registered on the complaint moved by the Deputy Excise Taxation Commissioner (ST), Sirsa and the same has been reproduced as under:-

> *"Office of The Supdt. of Police Dairy 5557 dt. 23.10.18 Sirsa- 125055 (Hry).*
> *From Dy Excise Taxation Commissioner (ST) To The Superintendent of Police, Sirsa. No. 4971/IT Dated 23.10.18. Subject:- To lodge an FIR Against Sh. Ashok Sukhija, Excise Taxation Officer(Retired) and other*

proprietors of firms. Shri Ashok Sukhija, ETO (Retired) during his posting at Sirsa from 2.7.2013 to 25.8.2014 issued 93 refunds. Shri Vinod Kumar S/o Sh. Hari Singh made a complaint against Sh. Ashok Sukhija which was marked to Sh. Ashok Sharma (the then Additional Excise and Taxation Commissioner), for preliminary enquiry Sh. Ashok Sharma submitted report dated 7.2.2014. Further, departmental enquiry under rule 7 was initiated' against Sh. Ashok Sukhija and Sh. R.P.Bajaj, District Session Judge (Retired) was made inquiry officer. Sh. R.P.Bajaj, Inquiry Officer in his report dated 24.6.2016 indicted Sh. Ashok Sukhija, ETO(Retired) to the extent that Sh. Ashok Sukhija for non compliance of instructions for verification of payment of input tax in the treasury by the assessing officers recommending/ordering the refund under section 20 of the Act. In any case, it involves allegation of connivance between the two. In the result, the charge is proved against the delinquent to the extent indicated above." Further the directions received from Hon'ble Excise Taxation Commissioner, Haryana to lodge FIR against Sh. Ashok Sukhija, ETO (Retd.). As Sh.Ashok Sukhia, ETO (Retired) issued refunds to the dealers without verification of payment of input tax to the State Treasury thereby causing loss to the State Exchequer, hence the FIR is to be lodged against the above named retired officer. The names of firms/dealers to whom refunds were issued without proper verification shall be intimated later on as and when received from Head Office You are hereby requested to lodge an FIR against Sh. Ashok Sukhija and others under relevant provisions of law. Sd

Satyawala Dy.Excise Taxation Commissioner (ST) Sirsa.”

3. Learned counsel for the petitioner contends that the petitioner is the sole proprietor of M/s Padam Kumar Amit Kumar, Sirsa, which is carrying on its business as a commission agent as well as trading in different commodities at Grain Market, Sirsa. He is related to the said firm only and has nothing to do with the affairs of any other firm or entity carrying on same or similar business. Learned counsel further contends that several FIR’s have been ordered to be registered some other entities, i.e., M/s Bharat Trading company, Sirsa etc., and the petitioner had no concern with the same. However, the petitioner has been falsely involved in these cases on the strength of the disclosure statement suffered by co-accused after a period of about 05 years. He further contends that the concession of bail has already been granted to similarly placed co-accused in the present case. Learned counsel further contends that even though, several other FIR’s were ordered to be registered against the petitioner, however, it is apparent from the orders (Annexures P-9 to P-13) that he has been granted the concession of bail in most of the cases. Still further, the petitioner was arrested in the present case on 10.10.2023 and challan has already been presented before the Court. He further contends that the conclusion of the trial may taken quite a long time and his further custody will not serve any useful purpose.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that

the petitioner is one of the main accused and sufficient incriminating evidence had already been collected against him during the course of investigation.

5. After hearing learned counsel for the parties and perusing the record, this Court is of the considered opinion that the petitioner deserves to be granted the concession of bail in the present case. The petitioner was arrested in the present case on 10.10.2023 and after the conclusion of the investigation, the final report under Section 173 Cr.P.C. has already been presented against the present petitioner. Moreover, Kapil Gupta and Asha Rani, brother-in-law and mother of the petitioner have already been granted the concession of regular bail by this Court. Even, the petitioner has been granted the concession of bail in most of the cases, which were ordered to be registered against the present him.

11. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

17.07.2024 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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