

CRM-M-11667-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11667-2024
Reserved on: 02.04.2024
Pronounced on: 10.04.2024

Darshana Rani ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manoj R. Sharma, Advocate
for the petitioner.

Mr. Kanav Bansal, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
201	31.07.2020	City Batala, Police District Batala, District Gurdaspur	304, 328, 120B IPC and Sections 61/1/14 of Punjab Excise Act 1914 (offence u/s 302 IPC added later on)

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. As per para 14 of the reply dated 18.03.2024, petitioner has no criminal antecedents.
3. State opposes the bail.
4. Facts of the case are being taken from the reply dated 18.03.2024, relevant portion is reproduced as under:-

“3. It is humbly submitted that initially, a case FIRNo.201 dated 31.07.2020 U/s 304, 328 IPC and section 61 of Punjab Excise Act, 1914 PS.City Batala was registered against unknown persons. On 30.07.2020, in the area of Hathi Gate Batala, Toti Alias Buta Ram and Bhupinder Kumar died and proceedings were conducted under section 174 Cr.P.C. on the statement of their family members. Thereafter, a Police party headed by Insp. Mukhtiar Singh was present in the area of Hathi Gate Batala, where

they came to know that Jatinder Kumar Alias John, Bitta, Bittu, Kalu, Jass and Laddi Mahajan also died on the same date and their family members had conducted their cremation without informing the police and DarshanLal and Dharminder were admitted in Guru Nanak Dev Hospital Amritsar in serious condition. He received secret information that all the above said persons had died due to consumption of spurious liquor. On 31.7.2020, as per the secret information, SHO P.S.City Batala had nominated the following seven (7) persons as accused as they were habitual of selling the illicit liquor and alcohol vide DDR No.39 dated 31.07.2020 :-

- i) Triveni Chauhan W/o Ashok Chauhan
- ii) Johny Kumar S/o Ashok Chauhan
- iii) Darshana Rani W/o Mohan Lal
- iv) Rajan S/o Mohan Lal
- v) Dharminder S/o Baldev Singh
- (All residents of Hathi Gate Batala, District Gurdaspur.)
- vi) Hira Singh S/o Sulakhan Singh
- vii) Gandhi S/o Sulakhan Singh both residents of Navi Abadi Umarpura, Batala, District Gurdaspur.

7. That, it is humbly submitted that the above said Special Investigation Team during investigation had found that it was the unfortunate Hooch tragedy leading to death of about 122 persons in Punjab and out of which, 14 persons in Police District Batala died and 2 persons have lost the complete eyesight due to consumption of spurious Liquor/ alcohol due to the preplanned of the accused for their personal gain. Thus, the offence under section 302 IPC was enhanced and the offence 304 IPC was deleted vide DDR No.28 dated 07.08.2020.

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8 That, it is humbly submitted that during further investigation, on the basis of the disclosure statement of accused George S/o Ashok Kumar, Satnam Singh @ Satta, Shamsheer Singh @ Sheera S/o Harjit Singh and Harjit Singh S/o Piara Singh R/o Pandori Gala 36/D were nominated as accused in the present case.

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11. It is humbly submitted that till date, 14 persons have died in Police District Batala due to consumption of spurious liquor and out of 10 accused, 8 accused have been arrested by the Special Investigation Team. Entire module has been busted and neutralized. Not only the culprits/accused have been arrested but the entire chain of backward and forward linkages has also been unearthed and unrevealed and the modus operandi used by the accused has been laid down by the Investigating Agency. Samples of spurious liquor as well Viscera Sample obtained during post mortem examination of Bhupinder Kumar S/o Inderjit R/o Kot Gali Hathi Gate, Batala, Yunas Masih S/o Haither Masih R/o Issa Nagar Batala and Buta Ram @ Toti S/o Ram Nath resident of Kazi Mohri Batala have been sent to the Chemical Examiner for analysis and the reports have been received. The doctor of Guru Nanak Medical College Amritsar

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*had given the report regarding cause of death and the same is as under:-
“After going through the finding of postmortem report, chemical examination report, hospital record of Guru Nanak Dev Hospital vide Cr. No.88803 of the cause of death in this case in my opinion is failure of function of brain due to severe acidosis caused as a result of Methyl Alcohol alone or/and due to combination of Ethyl and Methyl Alcohol which is sufficient to cause death in ordinary course of nature.”*

REASONING:

5. Petitioner seek bail for the reason that Coordinate Bench of this Court had granted bail to one Badal who is supplier of the illicit liquor, vide order dated 01.02.2024 passed in CRM-M-37186-2023. Petitioner’s counsel submits that petitioner’s case is entirely covered on parity with Badal and he is entitled to bail. He further contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

6. Counsel for the State opposes such bail on the grounds of parity and submits that case of the petitioner is different and distinguishable from Badal for the reason that Badal was arrested on disclosure statement whereas there is an evidence of recovery of 1680 ml of illicit liquor from the petitioner and her son Rajan and referred to para 12 of the reply which is as under:-

*“12. That sample of recovered illicit liquor/alcohol was sent to Chemical Laboratory Kharrar and was received with the remarks as **“Ethyl Alcohol and Methyl Alcohol”**.*

7. I have heard counsel for the parties and gone through the pleadings and record and its analysis would lead to the following outcome.

8. Police has collected sufficient prima facie evidence that 122 people had died in hooch tragedy because the liquor also contained **Methyl Alcohol**, which leads to severe acidosis and lead to death. The investigator has also connected the petitioner with such deaths by recovery of 1680 ml of illicit spurious liquor from the petitioner and her son Rajan. Thus, there is prima facie evidence connecting the hooch tragedy with illicit liquor, remnants of which were recovered from petitioner and her son. In the order granting bail to Badal, it is explicitly mentioned that he was arrested on disclosure statement and it will be appropriate to refer to para 5 of such order, which reads as follows:-

“After considering the rival contentions and going through the record, it transpired that petitioner was roped in the case on the disclosure statement made by co-accused Triveni Chauhan on 02.08.2020 (Annexure

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P-2) and no specific role has been attributed to the petitioner. The petitioner is in custody since 02.08.2020, challan has already been presented in the Court and prosecution has cited 68 witnesses and out of them 32 witnesses have been examined so far, meaning thereby, the petitioner is not required for further interrogation. The conclusion of trial in the present case to ascertain criminal liability, if any, of the petitioner may take sufficient long time and no useful purpose would be served by keeping the petitioner behind bars any longer.”

9. A perusal of the bail petition and the documents attached, prima facie points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

11. The petition is dismissed. All pending applications, if any, stand closed.

However, considering the petitioner's right to speedy trial coupled with the pre-trial incarceration, it is clarified that if the trial is not concluded within six months, and if the delay is not attributable to the petitioner, then the petitioner may file an application for bail before the trial court, which shall decide it expeditiously and consider the bail on the grounds of pre-trial custody, and all the previous orders of dismissal passed by the trial court or High Court shall not come in the way. It is clarified that this relaxation is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial, and if they do so, this order shall stand recalled and automatically revoke by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court.

(ANOOP CHITKARA)
JUDGE

10.04.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.