

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.12769 of 2024
Reserved on: 08.08.2024
Pronounced on: 30.08.2024

Shamsher Singh @ Monu ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sidharth, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
387	10.11.2023	Chhappar, District Yamuna Nagar	328, 304 IPC and Section 72(A) of Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Section 304 IPC deleted and Sections 120-B, 302, 201, 307 IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. Per the custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	327	09.11.2023	Under Sections 302, 304, 328, 120B IPC and Section 72(A)-4-2020 of Punjab Excise Act, 1914 (Haryana Amended Bill,2020)	Barara, District Ambala
2.	410	09.11.2023	Under sections 188, 201, 272, 308, 328, 420, 467, 468, 471, 472, 473, 120-B IPC and Sections 61, 63-A of Excise Act	Mullana, District Ambala
3.	249	08.11.2023	Under Sections 302, 307, 326, 328, 201, 467, 468, 471, 120-B IPC, Section 42(a) of Prisoner Act and Section 72(A) of Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020)	Farakpur, District Yamuna Nagar
4.	61/ 2018	--	Under sections 364, 302, 120-B,	Barara,



			406, 420 IPC	Ambala
5.	83/2023	07.04.2023	25(1A) of Arms Act	Shahzadpur, Ambala
6.	80/2021	03.06.2021	148, 149, 150, 427, 447, 506, 380, 395, 397, 120-B IPC	Barara Ambala
7.	435/ 2022	18.08.2022	42-A of Prisons Act	City Thanesar, Kurukshetra
8.	67/2015	--	323, 325, 506, 34, 427 IPC	Barara Ambala
9.	164/ 2015	--	323, 285, 506 IPC	Farakpur, Yamuna Nagar
10.	601/ 2019	27.06.2019	42-A of Prisons Act	City Thanesar, Ambala
11.	54/2022	20.01.2022	302, 34, 307, 120-B IPC, 25, 54, 59 of Arms Act	Mahesh Nagar, Ambala

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That brief facts of the whole incident are that an intimation was received on 08.11.2023 afternoon from Gaba Hospital regarding admission of a patient due to consumption of spurious liquor. Police team reached at the hospital and recorded statement of Prince resident of Village-Mandebri Police Station-Farakpur District Yamunanagar. He alleged that he along with Vishal had consumed the liquor purchased from an illegal vend being run by Rocky resident of same village on 07.11.2023. Vishal was declared brought dead on 08.11.2023. An FIR was registered in Police Station-Farakpur under sections 302/328/120-B of IPC and section 72-A of Excise Act. Thereafter, an intimation was received on 09.11.2023 in Police Station-Chhappar from hospital regarding death of Jagmal resident of village Saran. On 10.11.2023 an FIR No. 387/2023 under sections 328,304 of IPC and section 72-A of Punjab Excise Act, 1914 was registered in Police Station Chhappar on the complaint of Mohit Kumar son of Jagmal resident of village Saran, Distt. Yamuna Nagar regarding death of his father Jagmal and other person namely Anil Kumar due to consumption of spurious liquor. Later on two other persons namely Sushil Kumar and Paramjit Singh also died due to consumption of spurious liquor and one person namely Suraj Bhan suffered injuries dangerous to life. During investigation, sections 120- B, 302, 201,307 IPC have been added and section 304 IPC was deleted. In whole incident, 18 persons lost their lives and 05 got injured in district Yamuna Nagar for which three FIRs were registered in three different police stations in the district including present one. (Photocopies of PMRs in respect of Jagmal, Anil, Paramjeet and Sushil and MLR in respect of Suraj Bhan are annexed as R-I to R-V)”

4. The petitioner's counsel argued as follows:



1. That the petitioner is in custody and he is completely bed ridden and not even able to walk due to paraplegia (paralysis) and his lower limbs are not in motion and the lower portion of his body was completely paralyzed and due to his criminal antecedents, the police have been falsely implicating him in cases under section 120-B of IPC, without any evidence.

2. That the Petitioner was not named in the FIR and he has been implicated by the police in the present case under section 120-B of IPC on the basis of disclosure statement of co accused Ankit alias Mogli.

3 That the Petitioner is confined in District Jail Kurukshetra in an another FIR since month of January 2022. The present incident took place on 09.11.2023. So the Petitioner had no role in the commission of alleged offenses.

4. That the Petitioner is not involved in any illegal activity or business of making spurious liquors he is in jail since month of January 2022 but police have falsely implicated in the present case without any evidence due to his criminal antecedents.

5. That as per the prosecution case, the other Co-accused and petitioner in conspiracy made spurious liquor in a old factory and then Co-accused supplied it through liquor shops in the area and the Petitioner while confined in jail was in contact with other Co-accused through WhatsApp calls

6. That the police have no evidence to prove any conspiracy between the Petitioner and co-accused to prove any role of the Petitioner with the commission of alleged offenses.

7. That the Petitioner was arrested on 05.01.2024 and no mobile phone has been recovered from the Petitioner to prove any contact or chat between the petitioner and other Co-accused.

8. That the police have no proof or any jail visit entry record to prove any contact between the Petitioner and other Co-accused.

9. That there is no bank account statement of petitioner or his relatives with police to prove any money transaction between the Petitioner and other Co-accused for illegal business of liquor supply.

10. That nothing has been recovered from present petitioner and no demarcation of alleged factory has been got conducted from the Petitioner by the police.

11. That in police reply/status report dated 23.04.2024 of bail petition, it has been mentioned that the petitioner had partnership in liquor business with Co-accused Sushil @ Tinku in year 2021-2022 and petitioner had invested rs. 56 lacs in liquor business. It is pertinent to mention here that the partnership in liquor business, if any, was in year 2021

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.



6. The State's counsel opposes bail and refers to the following portions of the reply.

C. Role of the petitioner

"1. Investigation conducted SO far has revealed that petitioner/accused is lodged in Kurukshetra jail since 25.01.2022. Earlier he had partnership in liquor business with co-accused Sushil alias Tinku in year 2021-22 in which Rs. 20 lacs were outstanding on side Sushil alias Tinku. Co-accused Sushil alias Tinku offered petitioner to adjust his outstanding money in next year if he invested balance money in Mandebri zone. Petitioner and his earlier known co-accused Ankit alias Mogli accordingly invested money and gave demand draft of Rs. 13 lacs in May 2023 in Excise Department. He met Ankit alias Mogli in July 2023 who was an under-trial prisoner in NDPS Act case. They hatched a conspiracy to manufacture liquor in illicit manner. Petitioner/accused is key conspirator in the whole incident. Petitioner/accused remained in constant touch through mobile phone as well as personal visits in jail by co-accused.

2. Investigation has also revealed that accused Mahender was allotted Mandebri zone including Mandebri liquor vend situated at Phoonsgarh highway. This vend was further sublet to Pardeep resident of Koolpur. Petitioner/accused Shamsher alias Monu had also partnership in this liquor vend. He had invested money in this business using 'Garvit Trading Company'. Proprietor ship of this firm is in name of co-accused Pradeep. Further, analysis shows that there are multiple transactions w.e.f. 17.08.2023 to 07.11.2023 from account of Garvit Trading Company to the bank account of Ankit @ Mogli who was conspirator with present petitioner as well as kingpin in setting manufacturing unit in Dhannaura to manufacture liquor in illicit manner.

3. Petitioner/accused managed to one SIM card bearing number 7206912494 subscribed in name of Vikrant Chauhan and delivered to accused in jail by accused Kapil and Pradeep on 09.08.2023. This fact is substantiated by statement of Vikrant Chauhan recorded under section 164 of Cr.P.C. Tower location of this number is constantly in telecom tower covering Kurukshetra Jail area. Mobile phone was obtained by petitioner/accused while being in jail. When petitioner/accused came to know regarding registration of FIRs pertaining to spurious liquor, he burnt the mobile phone along with SIM card on 12.11.2023. Statement of eye witness Arjun has also been got recorded under section 164 of Cr.P.C.

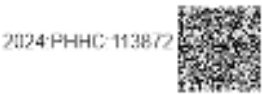
5. Investigation conducted so far as well as analysis of digital devices show that photos/videos of liquor bottles manufactured in illicit manner which ultimately took lives of 18 persons in this district were shared between petitioner and co-accused. Further, screen shots of money transactions are also available in whatsapp chat between petitioner and co-accused.

6. Accused is a notorious criminal having 30 criminal cases registered against him out of which 15 cases are under trial."

7. It would be appropriate to refer to the reply, which read as follows:

"3. An application to provide CCTV footage of cameras installed in District Jail Kurukshetra w.e.f. 01.05.2023 to 17.11.2023 was moved in case FIR No.249/2023 P.S. Farakpur on 23.11.2023, however the same has not been received.

4. List of visitors who have met petitioner during his custody in District Jail



Kurukshetra has been obtained which reveals that there were only visits of his brother upto March 2022. Thereafter, there is no visit as per record. Further, he has never used PICS (telephone facility being provided in jail) during his imprisonment in district Jail, Kurukshetra.”

- 8. A perusal of the bail petition and the attached documents prima facie points towards the petitioner’s involvement but does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.
- 9. The petitioner’s custody is from 25-01-2022 in another case, however in this case, he was taken into custody on 05.01.2024, which considering the loss of human lives, cannot be termed as prolonged at this stage.
- 10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
- 11. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.