

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-18543-2024(O&M)

Date of Decision:-23.04.2024

Naresh Kumar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sunil Kumar Pandey, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.407 dated 12.12.2003 under Sections 120-B, 201, 272, 273, 420, 467, 468, 471 IPC and Section 61(1)(c), 63A, 72-A, 4-20 of the Excise Act and Section 103 and 104 of Trade Marks Act, 1999 registered at Police Station Dharuhera, District Rewari, Haryana.

2. The present FIR came to be registered at the instance of Ashish Yadav, Excise Inspector which reads as under:-

“ Sir, it is requested to you that I Ashish Yadav Excise Inspector posted in Rewari that today along with staff in a official vehicle reached at Sabi Flyover Delhi Jiapur Road after receiving the information. That where/Sub Inspector Subchander along with Police officials in official car bearing registration No HR-36-GV-1871 were there who presented one TATA car bearing registration no. HR-47-F-3237 having TCL on the body and the back cabin is locked and Driver Pawan son of Udayram resident of Kasola District Rewari and Ajay son of Ram Singh and Arjun son of Santosh resident of Katda Police Station Pillor distriet Kanpur UP were

apprehended and produced, that aforesaid driver Pawan Kumar was made open the lock of the back cabin upon which huge amount of material was found in the same which was taken sent to a safe place and the material was taken out and upon checking five bottles of Old Monk liquor, 10 quarters of country made liquor without any mark of which ADS was mentioned on its cap and one white plastic bag from are caps if Old Monk was recovered which were counted and were 3530 in total and one plastic bag there were caps of country made liquor and the same was upon which 4346 caps were found and total and each cap ADS was written and three machines for fitting the cap was out of which two machines are of gray colour and one machine of green colour and out which one gray and green machine was for sealing the caps of Old Monk Liquor and one gray machine sealing the cap of country made liquor and one plastic bag there were 8 bottles with the 500 ML, On which two bottles were having batch no. 0016127866 five bottles of 0016083718 and one bottle 0015523377, 12 bottles of one liter having BE IC Mark were found in a plastic cartoon in which 3 bottles of batch no.0015287159, nine bottles 0015261409 having mark Bush International Flavour and Fragrances India Private Limited 720 EMC 2nd Avenue, SRI City 517646 which are manufactured from Andhra Pradesh Which used for making colours, one white drum having which is 65 liters on which plastic Caramel Sprit Soluble is written which upon measuring is found to be 10 liters out of which 2 samples of quarter were taken in one blue drum having a small cap which is also field chemical in which there approximately 10 liters of chemical out of which two samples quarter are also taken and two green drum of 50 liters out of which one of mark and in the second drum 8 liter of ENA (EXTRA NAUTRAL ALCOHOL) alcohol is present and two samples also taken and two big drum of 200 liter colour blue which has been covered with black colour caps are empty and two plastic pipes of green colour measuring 1 inch and ½ inch and one side Iron nipple are present and upon measuring the 20 feet and thereafter empty cardboard cartoons which were found 60 in number upon which spice county made liquor, ADS SPRITS PRIVATE LIMITED VILLAGE BHUTIYAN DISTT JHAJJAR 124201 is written and empty cardboard cartoon of Old Monk were counted which were found to be 5 in number in which 213 empty cardboard bottle cartoon are present on which OLD MONK XXX RUM MFG MOHAN MEANTIN LIMITED ESTD. 1855 REG. OFFICE SOLAN HP is written, and one cartoon which is in plastic bag and in each cartoon 355 quarter are there and total empty quarter are 13490 bundle of the sheet on which and on spice county made liquor fresh Mota is written who has been recovered and upon counting the same were 950 and of each sheet there are 45 label which are 42750 in total and one bottle of Old Monk was recovered which were countered and were found to be 875

sheets and on each sheet there are 9 labels which are 7875 in total and 3 marka of sheet of Hologram was also recovered and in the first bundle and there are 508 sheets and of each there are 60 holograms and which are total 30480 in hologram in number in the second bundle 384 sheet and there are each sheet there are 64 hologram which are 24676 hologram in number and third bundle is having 140 sheet and each there are 64 hologram which are total 8960 hologram in number and in three bundle of total 302 sheets and 64016 total number hologram are recovered which are prima facie appears to be forged and 3 separate bundles were prepared and from each bundle one hologram sheet from each bundle was taken as a sample and there are recovered liquor label and hologram and are recovered country made liquor samples were stamped as SD/ That Pawan and his accomplices namely Ajay and Arjun by keeping illicit liquor, forged labels and hologram using have as genuine were found, appropriate action shall be taken against them Sd/-Ashish Yadav, Inspector Excise Department Rewari dated 11.12.2023.”

3. Accused Pawan, Ajay and Arjun were formally arrested and interrogated. They stated that illicit liquor was being manufactured in village Saharavan, Manesar. Pawan also disclosed that the liquor vend belongs to S.S. Wines and from the said premises 156 crates of illicit liquor were recovered. One Sanjay Kumar was arrested on 12.12.2023 and disclosed about the involvement of Sandeep, Naresh (petitioner) and Dinesh. He also disclosed that he and Sandeep along with Dinesh were having a partnership in the liquor business with a share of 50%, 25% and 25% each. Sanjay got recovered Rs.80,000/-.

Naresh was arrested on 12.12.2023 and disclosed about the involvement of Surender Singh, Pawan, Sanjay, Prashant @ Sonu (since granted the concession of bail vide order dated 18.04.2024 in CRM-M-14782-2024) and Kunal and also got recovered Rs.20,000/-. He also got demarcated the premises of Lucky Wines and 149 Crates of illicit liquor were recovered from the said premises. From the premises Prashant son of the owner (Paramjit Singh Raghav) of Lucky Wines was arrested. He

disclosed that he had sold 25 Crates of liquor to the co-accused Shyam.

Pawan and Ajay got demarcated the premises where the illicit liquor used to be manufactured and got recovered empty chemical/water/spirit drums along with a water tanker.

Naresh got recovered Rs.20,000/-. The equipment used for preparation of illicit liquor was recovered at the demarcation of the accused Arjun and Sanjay.

The record pertaining to liquor vends of Lucky Wine Group and S.S. Wines were obtained. It transpired from the record that Sandeep was the only licensee qua the vend of S.S. Wines situated at IMT Manesar and that he had not sublet the same for operation to anybody else.

Dinesh Kumar, Shyam Singh and Inderjit Singh @ Indu were arrested.

Accused Amrik @ Amit was arrested on the disclosure statement of Pawan. The investigation revealed that Amrik @ Amit had been using the bank accounts of his brother-in-law Sukhwinder Singh along with a Sim Card issued in the name of Sukhwinder Singh.

A Vehicle bearing no.HR-36-AP-5450 belonging to the Surender was taken into possession. The accused Amrik Singh got recovered an Eicher Tractor from the house of co-accused Pawan.

On the demarcation of Pawan, Mukesh Sharma was arrested and a Fortuner bearing No.HR-51-AD-0077 was recovered from him. Prashant and Sanjay got recovered Rs.3,00,000/- + Rs.80,000/- respectively whereas Dinesh got recovered Rs.20,000/-.

As per the disclosure statement made by Prashant accused Shyam had purchased 25 Crates of illicit liquor and Shyam got recovered Rs.10,000/- from the proceeds of sale/profit of sale of the illicit liquor.

Pawan accused disclosed that at the instance of his brother co-accused Surender he had purchased the holograms and labels from accused Mukesh and Mukesh got demarcated the place where the crates had been handed over by him to Surender. Amrik Singh @ Amit got demarcated the shop from where he had purchased the cap sealing machine and the flavour used for preparing the illicit liquor.

On 19.12.2023 Mukesh Kumar disclosed that the Surender had paid a sum of Rs.15,00,000/- as cash and had transferred the rest of the amount in his account which was the sale consideration for the purchase of 15 lacs caps, make ADS, 34,250 packing crates of country made liquor and 1060 packing crates of old monk liquor and 12,000 caps of old monk. He also got recovered a sum of Rs.2,90,000/- along with the equipment used for preparing counterfeit labels/boxes. He stated that he had handed over the counterfeit labels to Surender and Pawan.

The vehicle used by the Surender for supplying illicit liquor bearing registration number RJ-02-CD-5151 was taken into possession.

Inderjeet got recovered the motor cycle along with an amount of Rs.14,400/-. Similarly Mukesh Sharma also got recovered dyes used for preparing counterfeit articles along with an amount of Rs.1,10,000/- out of the proceeds received by him from Surender.

As per the investigation a vehicle Tata bearing registration number HR-47-F-7237 which was apprehended at the spot stands registered in the name of Surender and Pawan, the driver of the vehicle is the brother of Surender.

The report under Section 173(2) Cr.PC stands submitted against 11 out of the 24 accused.

4. The Counsel for the petitioner contends that he has been falsely

implicated in the present case. The name of the petitioner does not figure in the FIR but he has been nominated as an accused later on on the basis of the confessional statement of his co-accused. Pursuant to his arrest Rs.20,000/- came to be recovered from him. Three co-accused of the petitioner, namely Ajay, Arjun and Prashant Kumar @ Sonu Raghav had already been granted the concession of bail. As the petitioner was a first time offender, in custody since 12.12.2023 but none of the 77 Pws had been examined so far, therefore, the Trial of the present case was not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner was not required.

5. The Counsel for the State on the other hand contends that the petitioner and his co-accused were engaged in the manufacturing and sale of illicit liquor. Therefore, the nature of the allegations levelled against the petitioner did not entitle him to the concession of bail. He however, concedes that the petitioner was a first time offender, in custody since 12.12.2023 and none of the 77 Pws had been examined so far.

6. I have heard learned Counsel for the parties.

7. This Court in the case *titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022 has held as under:-

“ Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

8.

The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 12.12.2023 but none of the 77 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Nothing significant has been pointed out by the State that the petitioner would abscond from the Trial, tamper with the evidence or influence the witnesses if they are granted the concession of regular bail. Therefore, his further incarceration is not required.
9.

Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Naresh Kumar** son of Sh. Hachanda is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
10.

The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.
11.

The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

April 23, 2024

Vinay

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