

CRM-M-21357-2024
Date of decision:22.05.2024

....Petitioner.

State of Haryana

...Respondent.

Present:- Mr. Rakesh Nehra, Sr. Advocate, with
M/s Bindu Tanwar, Reetesh Kumar, Vikalb Hooda,
Ankit Yadav, Advcoate,
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

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SANJIV BERRY, J. (ORAL)

Custody certificate dated 22.05.2024 filed by learned State
counsel is taken on record.

2. Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-2). Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
191	12.06.2023	420, 467, 468, 471, 120-B IPC & 61 of the Excise Act	Khol, Rewari.



3. It is, *inter alia*, contended by learned Senior Counsel for the petitioner that the petitioner is innocent and a false case has been planted upon him. He contends that the petitioner is not involved in any such transaction.

4. Learned Senior Counsel for the petitioner further contends that the petitioner happened to be the owner of the car No. HR-19-M-4198 which he had already sold to one Anil son of Kuldeep Sakna vide agreement dated 15.04.2023 (Annexure P-4) much before the alleged incident. As per the allegations, this car was given by said Anil to Sonu for piloting the canter taking liquor. He contends that the car had been sold much prior to the occurrence to the said Anil and even the registration certificate thereof has since been transferred in the name of said Anil. He contends that the petitioner is in custody since 16.02.2024 and the challan has already been presented in the Court after completion of investigation, as such, he prays for grant of bail.

5. *Per contra*, learned State counsel submitted that the petitioner had participated in the crime by allowing his car to be used for the purpose of piloting the canter driven by the co-accused, namely Ramesh Kumar, carrying contraband and hence, he is equally liable and not entitled to concession of bail. However, he has not disputed the fact that the petitioner was not having any other criminal case registered against him.

6. Arguments heard.



CRM-M-21357-2024

7. After considering the rival contentions and perusing the record, it transpires that the instant case was registered on the basis of secret information to the effect that the canter in question driven by the co-accused, namely Ramesh Kumar, was carrying the liquor meant for sale in Punjab State only and was transporting the same to Gujrat. Accordingly, the canter was intercepted and recovery of liquor meant for sale in Punjab was effected from the same. The canter driver could not produce the license or permit thereof, subsequently, the petitioner was arrested on 16.02.2024. The role attributed to the petitioner as per the prosecution is that he allowed the vehicle to be used by the co-accused (*supra*) for the purpose of piloting the said canter so that the canter driver may be cautioned in case there is some police *naka* ahead.

8. As stated above, after completion of investigation, challan has since been presented in the Court and out of 12 witnesses cited by the prosecution, none has been examined and the petitioner is not having any criminal antecedents; the conclusion of trial to ascertain the criminal liability, if any, may take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.



CRM-M-21357-2024

9. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

11. Petition stands allowed.

(SANJIV BERRY)
JUDGE

22.05.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |