

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.23679 of 2024
Reserved on: 08.08.2024
Pronounced on: 30.08.2024

Subhash ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.S Jattan, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
387	10.11.2023	Chappar, 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. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That in this regard, it is submitted that on 09-11-2023 information regarding the death of Jagmal S/o Nasib Lal due to intoxication of "Desi Alcohol" was received at the Police Station and thereupon the police party reached at the Civil Hospital, Trauma Centre, Yamuna Nagar where the son and wife of the deceased namely Mohit Kumar (son) and Saroj Bala (wife) met the police party but they did not made any statement to the police and on 10-11-2023 Mohit Kumar S/o Jagmal made his statement to the police alleging the death of his father by consuming liquor purchased from Raj Kumar @ Babli, Naresh Kumar @ Khuba, Rajesh Kumar, Radhey etc.”

4. The petitioner's counsel argued as follows:

"i. That as per police case, the Petitioner used to purchase the illicit liquor from the illegal liquor vend run by other Co- accused and used to further sell the same bottles on retail to his co-villagers.

ii. That the petitioner was arrested on 11.11.2023 and he allegedly suffered disclosure statement that he had purchased 15 boxes of country made liquor make 'Malta' @ 1050/- per box from his co-accused Gourav R/o Thumbar and Shankar Duliani. He further sold 8 boxes to Rakesh Kumar @ Radhey of his Village. It is allegedly disclosed that the petitioner Subhash Chand also sold 7 boxes of liquor to his co-villagers @ 140/- per bottle and due to consuming of said liquor, Anil Kumar S/o Ved Parkash died on 10.11.2023. It is further disclosed that he drained 15/16 bottles, which remained with him, in the drain (nali). It is allegedly disclosed that he also burnt the diary used by him for keeping the accounts of the sale. The petitioner allegedly got recovered his mobile phone and Rs.2300/-.

iii. That the Petitioner was not involved in any illegal activity or business of making spurious liquor The petitioner was not involved in manufacturing, transportation of spurious liquor. If the allegations of sale of liquor are admitted, still no alleged offences have been committed by the Petitioner. He was not aware that the liquor was spurious and was likely to cause death of the people. The allegations against the petitioner are that he purchased the spurious liquor from the illicit liquor vend run by the other co-accused and further sold the same to people of his Village after making profit out of sale of the bottles of said liquor. So, there was no motive or intention to cause death of any person however police have falsely implicated the petitioner.

iv. No bottle of liquor has been recovered from the petitioner.

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

vi. The police had no evidence to prove that the alleged supplied liquor was spurious. No chemical or substance has been recovered by the police during investigation of this case."

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 reply.

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

"22. That with regard to the role of petitioner, it is submitted that the petitioner was party to the criminal conspiracy and the petitioner hatched criminal conspiracy with co- accused Gaurav R/o Thamber etc. to sell illegal liquor. In pursuance of said criminal conspiracy, the petitioner along with above said co-accused started manufacturing illicit liquor at Village Dhanaura, Distt. Ambala. The petitioner sold the said spurious and poisons liquor to Anil Kumar deceased. The deceased person had consumed the liquor supplied by the petitioner which resulted in his death. Thus, the petitioner played active role in the commission of

offence. The petitioner along with his co-accused has committed the aforesaid offences in a planned way.

***24.** That it is also pertinent to mention here that due to the illegal acts of the petitioner and his co-accused a hooch tragedy has taken place in the area of police station Farakpur, Distt. Yamuna Nagar claiming 13 lives of Vishal, Mange Ram, Sushil, Jagir Chand, Arun, Narender, Ramesh Bhindi, Mehar Chand, Sarwan, Suresh, Suresh @Leelu, Ravinder and Parveen Tirangi whereas 3 victims namely Prince/complainant, Jagmal and Raghubir have suffered injuries/disability/blindness and in this regard, a criminal case bearing FIR No. 249 dated 08-11-2023 Under Section 302, 328, 120-B of IPC, 1860 & 72(A)-4-2020 of The Punjab Excise Act (Haryana Amendment Bills, 2020) was registered at Police Station Farakpur, District Yamuna Nagar. The hooch tragedy have claimed 4 lives in the present case and 1 other case registered in P.S. Bilaspur, Distt. Yamuna Nagar. The victim in the present case had also consumed the same illicit liquor manufactured at Village Dhanora District Ambala. The cause of death of the victims in the present case has been mentioned as Methyl Alcohol, poisoning and its complications. In this regard, the opinion of the doctors has been obtained. As per the opinion of the doctors, the death of deceased persons on account of consuming Ethyl and Methyl alcohol and the same can cause death. The report of F.S.L. has also been received.*

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 11th November 2023, which 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.