

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.28667 of 2024
Reserved on: 08.08.2024
Pronounced on: 30.08.2024

Hitesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
19	13.03.2024	Rohadai, District Rewari	420, 467, 468, 471 and 120-B IPC and Section 61 of Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020)

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 paragraph 9 of the bail application and para 13 of the reply, and as per custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	406/2017	--	Under section 379 IPC	Civil Lines, District Hisar
2.	208	09.03.2017	Under section 379 IPC	City Hisar, District Hisar
3.	184	01.03.2017	Under section 379 IPC	Sector-10A, District Gurugram
4.	473	12.06.2017	Under sections 379 and 511 IPC	Sector-10A, District Gurugram
5.	173	27.02.2017	Under sections 379 and 34 IPC	Sector-10A, District Gurugram
6.	357 of 2017	--	Under Section 379 IPC	Civil Lines, Hisar
7.	145 of 2008	--	Under Sections 419, 420 IPC	City Dadri,



				Bhiwani
8.	264 of 2023	--	Under section 174A IPC	Civil Lines, Hisar
9.	171 of 2022	--	Under Sections 147, 149, 427, 506 IPC	Loharu, Bhiwani
10.	288 of 2018	--	Under Sections 380, 427, 411, 440 IPC	Civil Lines, Bhiwani
11.	271 of 2017	--	Under Sections 379, 411 IPC	Sector-40, Gurugram
12.	147 of 2017	--	Under sections 379 IPC	Sector-10A, Gurugram
13.	292 of 2017	--	Under Section 379 IPC	Sector-10A, Gurugram
14.	194 of 2018	--	Under Section 379 IPC	Sadar Thanesar, Kurukshetra
15.	408 of 2023	--	Under Sections 61, 1, 14 of Excise Act	Tripari Patiala (Punjab)
16.	406 of 2017	--	Under Section 379 IPC	Civil Lines, Hisar
17.	208 of 2017	--	Under Section 379 IPC	City Hisar

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

“3. That the facts forming the genesis of the present FIR are that on 12.03.2024, SI Satbir along with EHC Anil was present at Palhawas Chowk in connection with crime patrolling duties, then he received a secret information to the effect that a canter bearing registration no. HR-55AK-5616, loaded with liquor, will go via Rewari towards Jhajjar. The said canter is being driven by Balraj. Upon this information, necessary barricades were put on the road and after some time, one canter was seen coming, which on signal to stop, drove over the divider and was overturned. The driver had been apprehended and on enquiry, he disclosed his name as Balraj son of Dan Singh. On checking, the smell of alcohol was coming from the body of said vehicle, so AETO, Excise Department, Rewari has been informed, who along with his staff reached at the spot and has moved an application. Thereafter, the vehicle was checked and it was found to be loaded with liquor. The liquor was taken into possession and Balraj was apprehended. aforementioned Accordingly, was the FIR registered and the investigations were taken up in the matter.”

4. 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.

5. The State's counsel opposes bail and refers to the reply and has referred explicitly to para 14 of the reply, which reads as follows:

“14. That as per the investigation and as can be culled out from the perusal disclosure statement of Subhash, the petitioner had of the co-accused an active complicity in the commission of the crime. He had been indulging in commission



of act of inter-state smuggling of liquor from the State of Punjab to the State of Gujarat. He had procured the vehicle from co-accused Subhash for plying it for the purpose of interse-state smuggling of liquor. the said liquor used to be transported from Punjab to Gujarat and the petitioner had been paying the co-accused Subhash Rs.1 Lac per trip for using his vehicle. He had used fake registration number plate on the vehicle and forged builty had also been used in the commission of the crime.”

6. Per the custody certificate dated 06.08.2024, the petitioner’s total custody in this FIR is 04 months and 06 days.
7. Considering the quality of evidence viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.
8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner’s complying with the following terms.
12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or



the Court.

13. Given the background of allegations against the petitioner, it becomes paramount to protect the illicit liquors detection squad and their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

14. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

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

16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.



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17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.