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

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Date of decision: 11th November, 2024

Daya Ram

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vishal Nehra, Advocate for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner seeking grant of regular bail in case bearing FIR No. 89 dated 19.05.2020 registered under Section 395 of IPC, 1860 at Police Station Sector 6, Dharuhera, District Rewari.

2. Briefly stated the prosecution case is that on 19.05.2020, a written complaint was submitted by the complainant Ishwar Singh posted as a salesman in liquor vend at village Kapdiwas, Dharuhera alleging therein that on the night of 18.05.2020, he was present in the liquor vend when three persons came there and asked him to let them talk to his contractor by saying that they would be running business at the liquor vend. The complainant made them talk to the accountant of the liquor vend and thereafter, while telling the complainant to remove the liquor vend from that place and

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threatening to remove the liquor kept in the vend otherwise, they left. On the next morning at about 4:00 AM, some persons reached at the liquor vend in two vehicles. They broke open the main door of the liquor vend and told him to stand in a corner giving threat to kill him. Five of those persons removed the cartons containing English liquor and beer and shifted them to their vehicles. They also took cash amount about Rs. 25,000/- kept in the bag and also the mobile phone belonging to the complainant. The complainant disclosed the names of four of them as Daya Ram, Bhudka, Munna and Gajendra and prayed for taking action in the matter. On his complaint, a case under Section 395 of IPC was registered. Investigation proceedings were initiated. During investigation, the accused Gajendra was arrested and subsequently, he was released on bail. The present petitioner was confined in jail in some other case. He was taken on production warrants and was interrogated. He suffered disclosure statement on 05.09.2023 admitting his involvement in the offences. Offence under Section 201 of IPC was added. After completion of necessary investigation, challan under Section 173 of Cr.P.C. was presented against the accused and presently, he is facing trial for commission of aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. The complainant has not implicated him in the subject offences. The petitioner has a permanent abode. There are no chances of petitioner's absconding. Trial is likely to take time. Though some cases have been registered against him but he is on bail in most of them. His custodial

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interrogation is no more required. Therefore, it is urged that the petition deserves to be allowed and petitioner deserves to be released on bail.

4. Status report has been filed by respondent-State. It is submitted therein and it is argued by learned State counsel that there are serious and specific allegations against the petitioner. He is a man of criminal antecedents since other criminal cases have been registered against him. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. Learned counsel for the petitioner has placed on record a certified copy of statement recorded by the complainant Ishwar Singh as PW-1 before the learned trial Court. In his sworn deposition, he is not shown to have supported the prosecution version. Rather it is revealed that he stated that no incident had taken place in his presence. He also stated that he had seen the present petitioner in the Court for the first time in his life. He is shown to have given a total go-bye to the prosecution version. The petitioner is in custody since 05.09.2023. Keeping in view the nature of the evidence which has come on record in the form of testimony of the complainant who was the most material witness of the prosecution, the period of incarceration of the petitioner, the nature of subject offence and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be



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released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

11th November, 2024

Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |