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

CRM-M-36794-2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Sushil ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. T.S. Attariwala, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
203	22.06.2024	Chhappar, District Yamuna Nagar, Haryana	406, 420, 467, 468, 471, 473, 120-B IPC and 61(1) (a) of Punjab Excise, 1914 (Haryana Amendment) Act, 2020 and 7, 8, 13 of PC Act, 1988

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 19 of the bail petition, the accused declares that he has no criminal antecedents.

3. Facts of the case are being extracted from status report dated 12.08.2024 filed by concerned DySP which reads as follows:-

> *"2. That brief facts of the case are that on 21.06.2024 secret information was SI Gurmej Singh CIA-1 and his team members to this effect that one canter bearing number HR-37E-3607 would come from Ambala side through Milk Majra toll plaza in which illegal liquor is loaded. Upon that information Nakabandi was started near village Pirthi Ka Majra and at about 05:30 PM the above aforementioned vehicle/canter apprehended by the police team. At that time the said vehicle was driven by co-accused Ramavtar (driver of the truck) on asking he produced Permit No PN241900070373 dated 20.06.2024 issued for purchasing liquor by Excise Department for 800 cases of quarts (750 ML quantity per bottle), 200 cases of pint (375 ML quantity per bottle) and 200 cases of nips (180*

ML quantity per bottle) total 1200 cases of country made liquor marka NV Rasila Malta from M/S N.V. International Pvt. Ltd Badholi, Ambala (distillery I.e. manufacturing unit of liquor) to L-13 M/S Scotch Station Wines, Jagadhari, Yamuna Nagar (whole seller of country liquor). The permit was valid up to 26.06.2024 for purchasing liquor. The above said driver also produced pass no PS24190086850 dated 21.06.2024 issued by the Excise department on dated 21.06.2024 at 10:59:17 AM which was valid up to 13:59:00 PM dated 21.06.2024 on the request of D-2 M/S N.V. International Pvt. Ltd Badholi, Ambala (distillery i.e. manufacturing unit of liquor) to sell the liquor to L-13 M/S Scotch Station Wines, Jagadhari, Yamunanagar (whole seller of country liquor).

3. That when the vehicle and driver apprehended by police team at about 05:30 PM on dated 21.06.2024 the above aforementioned pass no PS24190086850 dated 21.06.2024 was already expired and invalid. Therefore, the excise inspector Sh Mohan Singh Rana was requested telephonically to come on the spot at about 05:32 PM and at about 05:45 PM excise inspector Sh Mohan Singh Rana reached at the spot along with his team. All the record pertaining to permit, pass, canter No HR-37E-3607 loaded with 1200 cases of country liquor and driver handed over to excise official for further verification. Thereafter, the above said canter No. HR-37E-3607 loaded with 1200 cases of country liquor and driver were taken to CIA-1 Yamunanagar for verification. The liquor was unloaded and verified by excise officials through track and trace app (it is designed to trace and track the liquor with the help of scanner of barcodes affixed on each boxes and bottles) designed/ implemented by excise department, Haryana. During Scanning of recovered cases and bottles it was found that the same quantity of liquor having identical barcodes has already been shown stock-in at 06:11 PM in L-13 M/S Scotch Station Wines, Jagadhari, Yamunanaga (whole seller of country liquor). Therefore, the L-13 M/S Scotch Station Wines, Jagadhari, Yamunanaga (whole seller of country liquor) was visited by excise officials and Munsi namely petitioner/accused Sushil found present there. The L-13 M/S Scotch Station Wines, Jagadhari, Yamunanaga (whole seller of country liquor) was closed by excise officials for further verification and co-accused Sushil, driver Ramavtar, canter No HR-37E-3607 loaded with 1200 cases o illegal country liquor taken to the place of occurrence after verification again. Thereafter, the present FIR No 203 was registered on the complainant of Sh Mohan Singh Rana excise inspector on dated 27.06.2004 under section 120B, 406, 420, 467, 468, 471, 473 & section 61(1) (a) of The Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020 and further proceedings were completed by investigating officer on the spot. The co-accused Ramavtar (driver of canter) and petitioner/accused Sushil were arrested in the present case. The case property i.e. canter

> *No HR-37E-3607 loaded with 1200 cases of illegal country liquor, permit, pass, RC, insurance were taken in to police possession. Presently this case is being investigated by SIT headed by undersigned.*
>
> *4. That, vehicle loaded with 1200 boxes of liquor was taken into police possession. Co-accused Ramavtar (driver of the offending vehicle) and petitioner Sushil (munshi of the L-13) were arrested on 22.06.2024 and are in judicial custody after expiry of six days police remand. Accused Manoj Mahajan, Sales and Marketing Manager, N V International Private Limited, village Badhauli District Ambala (hereinafter referred as N V Distillery) was arrested on 23.06.2024 and is in judicial custody since 23.06.2024. Accused Brijpal and accused Rinku were arrested on 27.6.2024 and are in judicial custody since 30.06.2024 after completion of police remand. Accused Umesh Sharma General Manager Accounts N V Distillery was arrested on 06.07.2024 and is in jail. Accused Jitender Gulati, IT Head N V Distillery and Akshay were arrested on 07.07.2024 and are in judicial custody. Co-accused Anil Verma AETO Excise, Pardeep Excise Inspector and Satbir police official currently on deputation in excise department were arrested on 11.07.2024 and are in judicial custody. Sections 7,8 & 13 of Prevention of Corruption Act 1988 (as amended) have been added in the case during course of investigation. Accused Ghananand Chamauli has been arrested on 18.07.2024 and in judicial custody. Accused have suffered their respective disclosure statements. Certain relevant recoveries were also made from the accused. It has been revealed during investigation that barcodes which are affixed on every box & liquor bottle for tracking and other purposes have been wrongfully and illegally used twice for evading excise duty, permit fees etc., thereby causing huge wrongful loss to the government exchequer and wrongful gain to present accused party. During course of investigation total 12 accused has been arrested so far and one accused namely Ambris Tayagi has been died during investigation. However, arrest of other co-accused is pending and subject to further investigation."*

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. Counsel for the petitioner seeks bail on the ground that he was wrongly implicated in the FIR. He was just working as Munshi/Clerk in the said godown M/s Scotch Station Wines, Yamuna Nagar which is a wholesale dealer.

6. Counsel for the petitioner has referred to following portions of the bail petition which reads as follows:-

"*6. That it is pertinent to mention here that it is an admitted position of the prosecution that upon scanning the barcodes of the bottles recovered from the TATA vehicle, the said stock of 1200 cases of bottles was shown to be already in stock in the L-13 godown (where the petitioner was working) and upon physical verification of the godown, the said bottles were very much found stored there. Hence the said fact clearly shows that there has been no violation on the part of the L-13 godown since the licensed liquor cases were already present there.*

7. *That it is pertinent to mention here that the owner of the L-13 wholesale unit i.e. co-accused Rinku was allotted the license for operating L-13 wholesale godown only on 18.06.2024. Hence the said godown unit where the petitioner was employed had started its operations only on 18.06.2024 i.e. just 3 days before the alleged incident. Further, the petitioner was appointed as an employee in the said L-13 godown only on 19.06.2024. Hence in no manner can it be presumed that the petitioner was involved in the said offences. The same is an admitted fact by the prosecution itself in its reply 25.07.2024 filed before the Ld. Additional Sessions Judge, Yamuna Nagar and the same is appended as Annexure P-2.*

8. *That the said reply dated 25.07.2024 as well as the FIR also show the admission on the part of the prosecution that the permit dated 20.06.2024 for purchasing of liquor by L-13 godown owner Rinku from M/s N.V. International Pvt. Ltd. had already been taken and further a pass dated 21.06.2024 had also been issued by the Excise Department for transportation of liquor which had already been used in the morning. Hence the said fact clearly shows that liquor cases which were stored in the L-13 godown was with due permission and authorization.*

9. *That it is pertinent to mention here that the allegations with regards to using the same barcodes twice on the bottles recovered by the Excise Officials from the TATA Vehicle, have no connection with the bottles already kept in the L-13 godown after obtaining due permission. The said recovery made against a 3rd person can in no manner amount to any violation on the part of the petitioner who is merely an employee in the L-13 godown.*

10. *That it is pertinent to mention here that the fact that upon scanning the barcodes of the bottles recovered from the TATA vehicle the said stock of 1200 cases of bottles was shown to be already in stock in the L-13 godown and upon physical verification of the godown, the said bottles were very much found stored there, clearly shows that the bottles recovered from the TATA vehicle were being used for alleged black marketing not by the petitioner but by a third party.*

11. *That it is further pertinent to mention here that on 21.06.2024 certain cases of country made liquor were also*

> *transported from the L-13 godown to L-14 retail store by following due process and upon obtaining due permission vide pass no. PS241919086912 and PS241907086914. A copy of the said passes/ permissions are appended as Annexure P-3.*
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> 12. *That the said facts clearly show that no recovery of any illegal liquor has been made from the present petitioner. Further the petitioner merely being employed as a clerk/munshi in the L-13 godown that too on 19.06.2024 i.e. just 2 days before the alleged incident shows that the alleged offences have no connection with the petitioner. Further the petitioner merely being a newly appointed employee can clearly be seen not to be a beneficiary of any such incident.*
>
> 13. *That the petitioner is merely a salaried employee working in the said godown with the income of just Rs. 10,000 per month and has nothing to do with the alleged offences. Further no of the ingredients of the alleged sections are made out against the petitioner."*

7. The State opposes bail.

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

> *"5. That, investigation carried out so far reveals that this illegal activity (evading excise duty, permit fee etc) is being carried out by said distillery present as well as earlier L-13 licensee as well as present one and liquor contractors in organized manner in connivance with certain public servants, it has been revealed that payment to distillery of liquor dispatched in illegal manner was made in cash on every occasion including present one.*
>
> *6. That, investigation has further revealed that co-accused Rinku was allotted licence on 18.06.2024 for L-13. Permit No. PN241900070373 Dated 20.06.2024 issued by excise department on the request of L-13 licensee namely accused Rinku (for purchasing of liquor from M/S N.V. International Pvt. Ltd. Badholi, Ambala i.e. distillery) and PASS No. PS24190086850 dated 21.06.2024 issued by excise department for transportation of liquor, which had already been used in morning on 21.06.2024 for dispatch, transportation and receipt of stock of 1200 boxes of country made liquor from M/S N.V. International Pvt. Ltd. Badholi, Ambala i.e. distillery have again been used for loading, dispatch, transporting and possessing non excise duty paid liquor in illegal manner and the same was found in possession of driver during second round of transportation of liquor (1200 boxes) on same day whereas the same should have been in possession of L-13 at the time of arrival of delivery of liquor in morning time. Further, during search on 22.06.2024 and thereafter, in presence of excise officials, 466 boxes of country made liquor were having*

same barcodes and the same were also taken into police possession. Further, remaining cases of country made liquor have already been sold to L-14 (Retail license) without following due process as revealed during course of investigation to adjust illegally procured liquor. Further, liquor found loaded in truck bearing bar codes has already been shown as stock- in at around 6:11 PM on 21.06.2024. Thus, same barcodes have been used twice in connivance of accused who are liquor contractors, L-13 owner, his employees and distillery management persons in pre-planned manner. This deep nexus is being unearthed by conducting thorough and proper investigation.

10. That, interrogation of accused already arrested so far as well as crucial and reliable evidences collected so far have revealed that since ***July 2023 to June 2024; such 435 consignments containing 542050 boxes of CL were dispatched in blatant illegal manner as per demand of liquor contractors involving money in crores of rupees which has been received in cash by conniving with public servants specifically excise officials****. Three such officials have already been arrested and are in judicial custody and role of other public servants being ascertained during course of investigation.*

11. That, digital devices recovered during course of investigation have been sent to Cyber Forensic Lab for examination and report. Further, liquor samples have been sent to chemical examiner for examination. Hologram affixed on bottles have been sent to printing unit through excise department to ascertain genuineness of the same. Statements of four witnesses have been got recorded under section 164 of CrPC so far and statements of many withnesses have been recorded under section 161 of CrPC in the present case.

Role of the petitioner.

ii) The accused had played active role in whole exercise and remained in constant touch with co-accused. Further, he in connivance with co- accused ensured second trip on same papers for transporting consignment of non-duty paid liquor. Even permit, delivery challan etc. which should have been in possession of L-13 owned by petitioner were found in possession of driver while making second trip on same day in afternoon time. It is crystal clear that the petitioner accused in connivance with co-accused wanted to deceive the authorities during checking.

(iii) Petitioner even prepared transit passes by putting signature himself whereas there is no such procedure in excise department of issuing manual transit pass for dispatch of liquor from L-13 to L-14. Total 875 cases of country liquor were dispatched by petitioner from L-13 to various L-14 whereas L-34 (Permit) was taken for 200 cases only from excise department. One transit

pass book was recovered from petitioner/accused. Though petitioner has been employed at L-13 owned by co-accused Rinku since 18.06.2024 however he has been working co-accused Brijpal since last one year who is also partner of Rinku. Petitioner/accused used to receive five thousand for such illegal consignment.

<u>Evidence against petitioner</u>

Pass no PS24190086850 dated 21.06.2024, delivery challan, bill etc. which should have been in possession of petitioner on 21.6.2024 was found in possession of driver during second trip of 1200 cases of country liquor on same day in evening.

Transit Pass book used by petitioner was recovered during course of investigation. 475 cases of liquor were dispatched by petitioner to L- 14 in illegal manner by putting signature of himself whereas L-34 should have been got issued from the excise department.

Call Data Records of mobile numbers being used by petitioner clearly reveals that he was in constant touch with co-accused Rinku, Brijpal and driver Ramavtar.
Present petition for regular bail may kindly be dismissed on following grounds: -

<u>Prayer for dismissal of present Bail application.</u>

Present petition for regular bail may kindly be dismissed on following grounds:-

The offences under investigation are quite grave in nature as wrongful loss to the tune of crores of rupees has been caused to government exchequer. The petitioner/accused has played important role in whole sequence. Allegations against petitioner/accused are quite grave which are duly substantiated on basis of reliable evidences collected so far. To unearth the organized network of accused committing illegal activities and deep nexus of petitioner/accused with other co-accused; unhindered probe is required.

(ii) Being employed at L-13, there is reasonable possibility that he may influence key witnesses of the case particularly drivers who were involved in transportation of such illegal consignments, who are yet to be examined as investigation is at crucial stage. There is reasonable possibility that he may influence key witnesses of the case, who are yet to be examined as investigation. As some of the witnesses who are deployed in various capacities at L-13 or as driver and acquainted with the facts and circumstances of the case are yet to be examined, therefore, there is reasonable apprehension that accused may use

> *his influence or coerce them to not to state true facts to investigating officer during examination."*

9. State counsel has explicitly stated that although the petitioner was employed from 18.06.2024 but he was working with co-accused from the last one year, as such he is actively involved. Given the stand taken by the petitioner in para no.13 of the petition that he was working for the last one month and it has not been disputed that the petitioner was working with Rinku since 18.06.2024, on this ground alone, petitioner is entitled to bail. I**t is clarified that the bail of the petitioner shall not be a ground to other co-accused to seek bail.**

10. As per paragraph 15 of the bail petition, the petitioner has been in custody since 22.06.2024. Given the penal provisions invoked 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 further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

11. 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.

12. 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.

13. 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)	

14. This order is subject to the petitioner's complying with the following terms. 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.

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.

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

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.