

CRM-M-53690-2023
Date of decision: 15.01.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aakash Dalal, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

This is the first petition filed under Section 439 of Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.51 dated 04.03.2021 registered under Sections 379-A, 392, 458 and 201 of Indian Penal Code at Police Station Dujana, District Jhajjar.

2. The present FIR was lodged on the statement made by the complainant Rakesh on the allegations that he is working in the liquor vend Dujana. On the night of 03.03.2021, when he was sleeping in the liquor vend, some unknown assailants broke the door of the vend and started beating him. The assailants took away 10 boxes of liquor and also stolen an amount of Rs.4,000/- from the cash box.

3. Learned counsel for the petitioner *inter alia* contends that petitioner is in custody since 21.06.2021 and he is not named in the FIR. He has been involved in the present FIR only on the basis of disclosure statement made by co-accused, namely, Vivek and during the investigation nothing has been recovered from the possession of the petitioner.

4. Per contra, the learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that he is a habitual offender and is involved in 10 more cases of similar nature and in case he is allowed the

concession of regular bail, he may commit more crime.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 21.06.2021 and the trial of the case is progressing at a snail’s pace as out of 15 witnesses cited by the prosecution, 10 have been examined so far. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner. Keeping the petitioner in further detention, without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. Keeping in view the law laid down by the Hon’ble Supreme Court of India in ‘*Prabhakar Tewari Vs. State of U.P. and another*’ 2020 (1) R.C.R. (Criminal 831) and ‘*Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another*’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

7. In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Shamsher is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

January 15, 2024
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(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |