

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

CRM-M-51041-2024
Reserved on: 04.11.2024
Pronounced on: 12.11.2024

Subhash Chand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

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

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 10 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the status report 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. Accordingly, the FIR aforementioned was 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 status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“7. That upon verification the records of the vehicle on the basis of engine and chassis number, it was found that the said vehicle was purchased by Subhash son of Vishnu Dutt (petitioner herein) in the month of May 2022, however, he had not got the vehicle registered till date.

8. That on 29.03.2024, the petitioner was joined in the investigation of the case and was interrogated while being in custody. Upon interrogation, the petitioner had disclosed that he had rented the said vehicle in the month of August 2023 to the co-accused Hitesh for the purpose of use of the same in liquor smuggling and the co-accused Hitesh used to pay Rs. One Lac per trip to the petitioner. He further disclosed that he had also got prepared an affidavit regarding sale of the vehicle from the petitioner on the safer side.

9. That thereafter, on 29.03.2024 itself, the co-accused Hitesh was joined in the investigation of the case. He was arrested upon receipt of appropriate incriminating evidence against him. He was also interrogated while being in custody and upon interrogation, he conceded his involvement in the present crime. He apprised the investigating agency that he had taken on rent the vehicle aforementioned from the petitioner at rental of Rs. One Lac per trip for the purpose of using the same in act of liquor smuggling. He further apprised that he alongwith co-accused Amandeep used to get said vehicle loaded from Punjab and used to send the same to Gujrat. On 31.03.2024, the affidavit regarding the sale of the vehicle was taken into possession.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 10 of the bail petition, the petitioner has been in custody since 29.03.2024. Per the custody certificate dated 02.11.2024, the petitioner's total custody in this FIR is 07 months and 03 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie 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.

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

14. 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.

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

(ANOOP CHITKARA)
JUDGE

12.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.