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

CRM-M-5811-2025

Date of Decision: 05.02.2025

Mukesh

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Devender Arya, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant regular bail to him in case FIR No.113 dated 28.09.2024 registered under Sections 61 of Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and Section 61(1) of BNS, 2023, (later on added Sections 318(4), 338, 336(3), 340(2) of BNS Act, 2023), at Police Station Rohadai, District Rewari.

2. Learned counsel for the petitioner contends that the petitioner was not initially named in the FIR and his name has surfaced in the disclosure statement suffered by Anil, co-accused, who had been arrested in some other case. He further contends that as per the allegations, illicit liquor was loaded in a container and the petitioner was travelling in his Endeavour car with the truck. He further contends that in fact, the entire story has been concocted by the local police, just to harass the main accused and the petitioner. Learned counsel has



further placed reliance on the orders (Annexures P-2 and P-3), whereby Raja and Anil, co-accused have been granted the concession of bail. Further, Manoj Kumar and Rohit have also been granted the concession of bail by this Court vide orders (Annexures P-4 and P-5). The petitioner was arrested in the present case on 15.10.2024 and his further custody will not serve any meaningful purpose.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and is not entitled to grant the concession of bail by this Court.

4. I have heard the learned counsel for the parties and perused the record.

5. No doubt, several criminal cases have been registered against the petitioner, but the petitioner cannot be denied the concession of bail in the present case only on that ground because the petitioner has been able to make out a case for grant of bail in the peculiar facts and circumstances of the present case. The reliance can be placed on the law laid down by the Hon'ble Supreme Court in the matter of "***Prabhakar Tewari Vs. State of U.P., and another***" 2020(1) R.C.R. (Criminal) 831, wherein it has been held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of "***Maulana Mohd. Amir Rashadi Vs. State of U.P., and another***" 2012(1) R.C.R. (Criminal) 586. In the present case, the petitioner was arrested on 15.10.2024 and is in custody since then. Similarly placed co-



accused, namely, Raja and Anil have been granted the concession of bail vide orders (Annexure P-2 and P-3). Further, Manoj Kumar and Rohit have also been granted the concession of bail by this Court vide orders (Annexures P-4 and P-5).

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

05.02.2025
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No