



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

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CRM-M-27938-2025 (O&M)
Date of decision: 26.05.2025

Harvinder @ Kalla @ Chichar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Khatkar, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 483 of the BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.498 dated 14.12.2023 registered under Sections 279, 336, 353, 186, 420, 467, 468, 471, 120-B IPC and Section 61 of Punjab Excise Act, at Police Station Sadar Tauru.

2. In brief, the facts of the prosecution case are that on 14.12.2023, SI Vijaypal alongwith police officials was present at the fly over of KMP, Dhulawat for crime detection duty then a secret informer came and informed that one vehicle bearing registration No.MH-46AF8339 affixed with fake number plate by loading illicit liquor would go at Gurugram via KMP road and if barricading is done then the driver of the aforesaid vehicle along with illicit liquor could be caught red handed. Believing the information true, SI Vijaypal installed a



barricade at the place disclosed by secret informer and after sometime one Container bearing registration No. MH-46AF-8339 was seen coming from Palwal side and on seeing the signal to stop the vehicle by SI Vijaypal, the driver of vehicle fled away from the spot leaving his vehicle at the spot. SI Vijaypal and other police officials tried to apprehend the driver of the vehicle but he managed to flee. After sometime, the police party returned to the spot and the vehicle was brought to the police station. When the vehicle was checked, one built No.163 dated 13.12.2023 of vehicle bearing No. HR-38Z-8669 was found in the cabin. On checking the body of the vehicle, 125 boxes of illicit liquor marka Royal Challenge, 60 boxes of All Seasons, 624 boxes of McDowell-No.1 and about 21 broken boxes of different marka liquor was found. During further investigation of the case, the owner of the vehicle was joined in the investigation. Fast Tag ID and CDR of mobile phone 9521758133 were obtained and said mobile was found registered in the name of Om Prakash son of Kherja Ram, resident of village Shriram, District Badmer (Rajasthan) and he was arrested on 17.11.2024. Hence, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The petitioner was neither named in the FIR nor arrested at the spot along with the liquor, which was recovered by the investigating officer. The petitioner has been nominated in the case as an accused only on the basis of disclosure statement made by co-accused Om Parkash. Even in



the disclosure statement, there is no specific allegation levelled against the petitioner. Further, the petitioner has no concern with vehicle from which the alleged liquor was recovered and apart from the disclosure statement, there is no other evidence to connect the petitioner with the alleged recovery. The petitioner is in custody since 12.03.2025 and all other co-accused including the accused from whose possession, liquor was allegedly recovered, have been granted the concession of regular bail.

4. Learned counsel for the petitioner further submits that charges are yet to be framed and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the petitioner was part of a gang, who is indulged in inter-state liquor smuggling and huge quantity of liquor was recovered in the present case and one of the co-accused of the petitioner is yet to be arrested and the petitioner is involved in one more case.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 02 months and 13 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges are yet to be framed and trial of the case has not made much progress.



7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. CBI"***, (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. 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.

9. Further 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.

10. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Harvinder @ Kalla @ Chichar is ordered to be released on regular bail during pendency of the trial, on furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

11. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

26.05.2025
yakub

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