

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62979-2024 (O&M)

Reserved on: 14.02.2025

Date of Pronouncement: 19.02.2025

Balraj Singh

... Petitioner(s)

Versus

State of Haryana

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Vikash Bishnoi, Advocate and
Mr. S.K. Aarya, Advocate
for the petitioner(s).

Mr. Ashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
19	13.3.2024	Rohadai, District Rewari	420, 467, 468, 471 and 120-B IPC and 61 Excise Act, 1914 (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 application, the petitioner-accused declares that he has no criminal antecedents.
3. The facts and allegations are being extracted from the reply filed by the State, which reads as follows:

“That the facts forming the genesis of the present FIR are that on 12.03.2024, Police Party 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 (petitioner herein). 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 (petitioner herein). 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. Registered was and 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. He further submits that co-accused of the petitioner have already been granted the concession of bail by this Court.

5. The State’s counsel opposes bail and refers to the reply.

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

“That the petitioner is an accused of commission of a serious crime. As per investigation, the petitioner was the driver of that vehicle and it cannot be believed merely on the asking of petitioner that he had no knowledge that liquor was being transported in the vehicle. The vehicle was being plied by the petitioner for transportation of liquor and the vehicle was carrying a false registration plate. The petitioner had been handed over the vehicle loaded with illicit liquor and the petitioner was transporting the same to Gujrat, a dry State. The petitioner has been apprehended red handed with the vehicle loaded with illicit liquor and without registration number and a fake registration number.”

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.

8. Per paragraphs 2 and 11 of the bail petition, the petitioner is in custody since 12.3.2024. Per the custody certificate dated 31.01.2025, the petitioner’s total custody in this FIR is 10 months and 14 days.

9. 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 for further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

10. 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.

11. 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.

12. 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)	

13. This order is subject to the petitioner’s complying with the following terms.

14. 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. Given the background of allegations against the petitioner, it becomes paramount to protect the illicit liquors detection squad and their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

16. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon’ble Supreme Court holds that “The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed.”

17. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

18. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

February 19, 2025

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Whether speaking/reasoned : Yes

Whether reportable : Yes