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

**106-14** **CRM-M-49194-2025**

Sushil Kumar @ Tinku

....Petitioner

V/s

State of Haryana

....Respondent

**Date of decision: 16.03.2026**

**Date of Uploading : 18.03.2026**

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Rahul Bhargava, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

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**SUMEET GOEL, J. (Oral)**

1. Present second petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.451 dated 11.11.2023, registered for the offences punishable under Sections 120-B, 201, 204, 302, 328, 420, 467, 468, 471 of IPC and Section 72-A of the Punjab Excise Act, 1914 (Haryana Amendment Bill, 2020) and Section 42 of Prisons Act at Police Station Bilaspur, District Yamunanagar, Haryana.

The petitioner has earlier applied for grant of regular bail before this Court which was dismissed as withdrawn vide order dated on 20.03.2025.

Thereafter, the present petition i.e. the second petition for grant of regular bail, has been preferred by the petitioner on 01.09.2025.

2. The gravamen of the FIR reflects that the FIR in question has been registered on the statement of Mukesh, who alleged that on

08.11.2023, his father namely Rishi Pal went to supply building material at Village Harjoli Seller, Police Station Mullana, District Ambala and returned at about 05:00 PM under the influence of liquor. The complainant further alleged that on 09.11.2023, his father again went with his friend Raj Mohammad for some work at Ambala and returned home at about 05:00 PM. On reaching home, his father had told the family members that he had consumed liquor from a vend at village Tangel, Police Station Mullana, District Ambala and since then his health deteriorated and his vision was hazy. On 10.11.2023, the health of the father of the complainant further deteriorated and he had lost his eyesight whereinafter he was admitted to Civil Hospital, Trauma Centre, Yamuna Nagar. It has been further alleged that during the course of treatment, the father of the complainant had died. The complainant had alleged that his father had died on account of consumption of spurious liquor on 08.11.2023 from the vend at village Tangel. On the basis of the said statement, FIR in question was registered and investigation was set into motion. During the course of investigation, it was revealed that one accused Mohit Rana alias Kala Rana used to supply spurious liquor in the area, who is presently confined at Central Jail, Ambala in another FIR. On production warrant, the accused Mohit Rana had joined the investigation and was arrested in the present case. He suffered a disclosure statement that accused Ankit @ Mogli etc had allegedly started manufacturing illicit liquor at village Dhanoura District Ambala and sold the same in illegal manner to the vendors of liquor vend situated at village Mandebri District Yamunanagar. He has further revealed that the accused Vishal Kumar @ Laddi and his partner Sandeep @ Sonu and other liquor vendors indulged in the illegal business of liquor. Thereafter, several accused persons were arrested and their disclosure statements were recorded pursuant to which the investigating agency claimed to have unearthed a larger network allegedly involved in the manufacture, supply and distribution of illicit and spurious liquor. Consequently, offences under Sections 302, 328, 120-B IPC and relevant provisions of the Excise Act were invoked against the accused persons.

3. Learned counsel for the petitioner has iterated that the petitioner was not named in the FIR and has been falsely implicated into the FIR in question as he was neither named in the FIR nor attributed any role in the commission of the alleged offence. Learned counsel has further iterated that the petitioner has no nexus whatsoever with the manufacture, distribution or sale of spurious liquor. It has been further contended that the petitioner was neither named in the FIR nor in the initial stages of investigation and has been subsequently arrayed as an accused only on account of certain financial transactions between the petitioner and one Mohinder Singh, a licensed liquor contractor. It has been further contended that the petitioner is a registered financer and has merely extended financial assistance to Mohinder Singh in the ordinary course of his business. It has been further contended that there is no material to show that the petitioner has any knowledge of illegal activities or that the funds advanced by him have been used for manufacturing the illicit liquor. Furthermore, no recovery has been effected from the petitioner and no call detail records connects him with the co-accused involved in the alleged illegal trade of spurious liquor. It has further been contended that even in the statements

recorded under Section 164 Cr.P.C. and disclosure statements of co-accused persons, the petitioner has not been named. It has been further contended that the petitioner has been in custody for substantial period and the trial has progressed at a slow pace. Learned counsel has asserted that the prosecution has cited large number of witnesses and the trial is likely to take considerable time to conclude and hence the continued incarceration of the petitioner would serve no useful purpose. Furthermore, the petitioner shall undertake to abide by all conditions that may be imposed by this Court, including not tampering with the prosecution evidence or influencing witnesses and not leaving the country without prior permission of the Court. On the strength of aforesaid submissions, the grant of petition in hand is entreated for.

4. *Per contra,* learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the allegations are grave and serious in nature as the case pertains to the manufacture and supply of illicit/spurious liquor which ultimately resulted in the death of certain persons. Learned State counsel has iterated that during the course of investigation, a larger conspiracy involving several persons engaged in the manufacture and distribution of poisonous liquor has been unearthed. According to learned State counsel, during the course of investigation, the petitioner has been found to be associated with persons who were directly involved in running the liquor vends through which the illicit liquor was circulated. Furthermore, the petitioner is not a mere financer but form part of a larger network facilitating the illegal liquor trade. According to learned State counsel, the investigation has revealed that the petitioner has been

continuously financing the liquor business. Learned State counsel has further pointed out that the earlier petition of the petitioner for grant of regular bail has already been dismissed and there is no substantial change in circumstances. Considering the gravity of the offence and the specific role attributed to the petitioner, learned State counsel has prayed for the dismissal of the instant petition.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another: 2024: PHHC:054064***; relevant whereof reads as under:-

> *9. The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has fundamental ascendency over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress the rights of another individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).*
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> *9.1 An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions,*

*especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section 362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.*

*9.2 The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in **Kalyan Chandra Sarkar** (supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.*

*9.3 The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).*

*9.4. The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.*

*9.5 No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.*

*10. As an epilogue to the above discussion, the following principles emerge:*

*I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.*

*II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.*

*III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.*

*IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).*

*V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed."*

7. The present petition is a second petition for grant of regular bail by the petitioner. A second regular bail petition is indeed maintainable under law; however, it requires demonstration of a substantial change in circumstances since the earlier petition. It is a settled proposition of law that such a change must be significant and not merely superficial or technical to warrant reconsideration. This standard ensures that the remedy of successive bail petitions is not misused through repeated filings but is available when new and material factors arise that alter the initial assessment of the case. The first bail filed by the petitioner was dismissed

as withdrawn on 20.03.2025 and no opinion on merits has been expressed therein. However, in the interest of justice, this Court proceed to decide the plea(s) raised on merits as well in the peculiar factual *milieu* of the present case.

8. The grant of bail falls within the discretionary domain of the court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing, and overall conduct of the accused play a crucial role. Furthermore, the Court must weigh the potential danger of grant of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490,*** relevant whereof reads as under:

> *"14. It is well settled that the matters to be considered in an application for bail are (i)whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the*

*accused;(vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted bygrant of bail (see* ***Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280*** *and* ***Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179****). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in* ***Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528*** *:"The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*

*a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*

*b. Reasonable apprehension of tampering with the witness or apprehension ofthreat to the complainant.*

*c. Prima facie satisfaction of the* ***court*** *in support of the charge. (see* ***Ram GovindUpadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 andPuran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338.****"*

*This Court also in specific terms held that :*

*"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High* ***Court*** *has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in*

*our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."*

9. Indubitably, the allegations against the petitioner are grave in nature. The material which has come on record, at this stage, *prima facie* suggests that the petitioner specially attributed an active role in the alleged incident. The gravamen of the FIR transpires that the instant case has arisen on account of an incident wherein the deceased Rishi Pal allegedly consumed liquor purchased from liquor vend situated near village Tangel and thereafter his health got deteriorated. Thereafter, the deceased was taken to the hospital where he ultimately succumbed. During the course of investigation, the viscera and blood samples of the deceased were sent for forensic examination and as per the report of the Forensic Science Laboratory, the presence of Ethyl Alcohol and Methyl Alcohol was detected. The medical opinion on record indicates that the cause of death was secondary to methyl alcohol poisoning and its complications. The investigation conducted by the police further reveals that illicit liquor was allegedly being manufactured at a factory situated at village Dhanaura, District Ambala and was being supplied to various illegal liquor vends operating in the surrounding areas. It is the case of the prosecution that the liquor so manufactured was distributed through a network of accused persons and the same ultimately reached the liquor vend from where the deceased had allegedly purchased the liquor. During the course of

investigation, several accused persons were arrested and disclosure statements were recorded which led the investigating agency to unravel an alleged network engaged in the manufacture and distribution of spurious liquor through various liquor vends. As per the case of the prosecution, the material collected during the course of investigation *prima facie* indicates that the petitioner was not a stranger to the network vide which the illicit liquor was being circulated. The record *prima facie* reflects that the petitioner has been engaged in repeated financial transactions with the main accused Mohinder Singh, who was holding the liquor licences. The plea of the petitioner that these transactions are part of a lawful financing business does not persuade this Court. The stand of the investigating agency before this Court is that such financial assistance has resulted in expansion of an illicit liquor network. Furthermore, the frequency of the financial transactions and the period during which the illegal activities have been carried out, are circumstances which cannot be ignored at this stage. The Court also finds that the petitioner has been arrayed as an accused during investigation on the basis of cogent material which suggest his link with the overall conspiracy. In cases involving criminal conspiracy, the direct evidence is not often available and the involvement of an accused has to be inferred from circumstantial evidence and surrounding facts. At this stage, the material on record does indicate a *prima facie* nexus between the petitioner and the main accused persons. The plea of the petitioner that he was unaware of the illegal activities cannot be accepted at this stage. In the considered opinion of this Court, the culpability in the offences of this nature, is not only limited to the accused who manufactures or supplies the illicit substance but also extends to those who facilitate or support the same in any manner with knowledge. The offences alleged against the petitioner are grave in nature and involve serious allegations of conspiracy, illegal manufacture and distribution of spurious liquor which resulted in multiple deaths due to methyl alcohol poisoning. It is not in dispute that the implication of the petitioner is based upon the material collected during the course of investigation. It is also a matter of record that the investigation has culminated in the filing of the challan as well as a supplementary challan and charges have been framed by the Court below against the petitioner. The record further reflects that the prosecution has cited a large number of witnesses and the trial is currently at the stage of recording evidence.

10. The allegations in the instant case pertain to an incident involving the manufacture and circulation of illicit liquor leading to loss of human life which is a matter of serious concern. The prosecution case, at this stage, *prima facie* indicates the existence of a conspiracy involving multiple persons engaged in the supply and use of alcohol for the preparation of spurious liquor. The contention of learned counsel that the petitioner has no knowledge of any illegal activity is a matter of defence, which cannot be examined at the stage of considering the plea for grant of regular bail. It is apt to mention herein that the petitioner has a long criminal history involving a large number of cases registered against him. Though in some of the cases he has been released on bail but the nature of the cases cannot be ignored while considering the plea for grant of regular bail. The criminal antecedents of an accused are a relevant factor while considering the prayer for bail, particularly where there is a reasonable apprehension

that the accused, if released, may indulge in similar activities or may attempt to influence witnesses. Furthermore, the investigation conducted by the prosecution has brought forth the involvement of several persons in the alleged illegal activity and the plea of the petitioner that he has no nexus whatsoever with the manufacture, distribution or sale of spurious liquor and has been roped in merely on account of alleged association with co-accused person(s), is a matter which requires examination during the course of trial. At this stage, it cannot be said that the role attributed to the petitioner is insignificant. The prosecution case specifically alleges that the involvement of the petitioner surfaced during investigation on the basis of material collected subsequently.

11. Furthermore, it is true that the petitioner has been languishing in custody for a considerable period but the seriousness of the allegations and his criminal antecedents weigh heavily against him. The material which has been placed on record does not show that the delay in trial is solely attributable to the prosecution. In such circumstances, long custody, by itself, cannot be treated as a ground for grant of bail. At this stage, no accentuating circumstances have been made out which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence on record. It is also to be borne in mind that offences of this nature strike at the very root of public order and societal conscience.

12. Considering the gravity of the offence, the stage of the trial and the overall facts and circumstances emerging from the record, this Court finds no merit in the present petition. Accordingly, this Court is of the

considered opinion that the petitioner does not deserve the concession of regular bail in the factual *milieu* of the case in hand.

13. In view of the prevenient ratiocination, it is ordained thus:

(i) The petition in hand is devoid of merits and is hereby dismissed.

(ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

(iii) Pending application(s), if any, shall also stand disposed of.

**(SUMEET GOEL)**
**JUDGE**

March 16, 2026
*Ajay*

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