

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

**CRM-M No.13924 of 2017
Date of Decision : 26.07.2017**

Gurpreet Singh @ Gopi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Barjesh K. Sharma, Advocate
for the petitioner.

Mr. V.G. Jauhar, Senior Deputy Advocate General, Punjab.

SUDIP AHLUWALIA, J. (ORAL)

Mr. Munish Bhardwaj, Advocate has put in appearance and filed his *vakalatnama* on behalf of the complainant today in the Court. Same is taken on record, subject to all just exceptions.

Learned counsel for the petitioner first relies on the order passed by a Co-ordinate Bench in CRM-M No.30820 of 2016 in which an earlier petition of the petitioner filed under Section 439 Cr.P.C. was disposed of with a direction which reads as under :-

“It is directed that in case the prosecution does not lead its entire evidence on or before 30.11.2016 (subject to the accused not obstructing the same) the petitioner be released on bail to the satisfaction of the trial Court.”

It is further submitted on behalf of the State that in pursuance of such direction, prosecution evidence against the petitioner was actually

completed within the specified time after which he was even examined under Section 313 Cr.P.C. on 7th of December, 2016. Consequently, the observations in the previous order are not helpful to the petitioner.

Thereafter, learned counsel for the petitioner seeks his release on the ground of parity with co-accused Gurdev Singh @ Debi, who was ordered to be released by another Co-ordinate Bench in CRM-M No.9859 of 2016 vide order dated on 16th June, 2016, wherein it was observed *inter alia* -

“The petitioner is tried for offence under Sections 302, 323, 148, 149 of IPC who is stated to be incarceration since 22.04.2015. However, the complainant has turned hostile and also suffered statement. In my view, the prosecution would not be able to prove the case. In the interest of justice, petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Jalandhar”.

Learned counsel for the petitioner submits that since the *de-facto* complainant has admittedly turned hostile, so the petitioner would stand on the same footing as co-accused Gurdev Singh @ Debi. This submission is however countered on behalf of the State.

Learned Advocate General, Punjab submits that even though the complainant turned hostile, two other eye-witnesses namely, Kuldeep Singh and Jasveer Singh have nevertheless given evidence as PWs 1 and 4 against the petitioner, on account of which it cannot be automatically held that “the prosecution would not be able to prove the case”.

There is nothing on record and even in the order passed by the learned Co-ordinate Bench on 16th June, 2016 to indicate that statements of the other eye-witnesses apart from the complainant were actually brought to his Lordship's notice at that time.

It further transpires that now the matter is only pending for evidence from the defence side. The trial therefore is virtually at the concluding stage.

For the aforesaid reasons, this Court is not inclined to release the petitioner at this stage.

Dismissed.

Ld. Trial Court however shall make an endeavour to complete the trial as expeditiously as possible and preferably within a period of one month from the date of receipt of certified copy of this order.

July 26, 2017
Dpr

(SUDIP AHLUWALIA)
JUDGE

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