

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 3799 of 2022
Date of Decision: 22.4.2022**

Magan Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Mohammad Arshad, Advocate for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C., seeking the indulgence of regular bail, to the petitioner.
2. In FIR bearing No. 370 of 24.6.2021, registered at Police Station Zirakpur, District SAS Nagar Mohali, offences constituted under Sections 386, 506, 34 IPC, are embodied.
3. The petitioner is in judicial custody since 24.6.2021, and, only if there is evidence, on record, displaying that during the course of investigations, the present petitioner has not, at his instance, effectuated the recovery of the incriminatory weapon of offence, to the investigating officer concerned, or if there is evidence displaying that in the event of bail, being granted to the bail applicant-petitioner, there is a likelihood of his being fleeing from justice, and, tampering with the prosecution evidence, thereupon, alone this Court would become constrained to not grant indulgence of regular bail to the bail applicant-petitioner.
4. However, it is stated, at the bar, by the learned State counsel,

that recovery of the incriminatory weapon of offence, had been made by co-accused, namely, one Subhash Bharti, to the investigating officer concerned. Therefore, when the afore recovery was not to be made at the instance of the present petitioner, and, also when, as stated by the learned State counsel, that after completion of investigations into the FIR (supra), an affirmative report under Section 173 Cr.P.C., has been instituted before the learned Magistrate concerned. Therefore, this Court does not deem it fit, and, appropriate to prolong the judicial incarceration of the petitioner, as, thereupons his personal liberty would become unnecessarily fettered, and, curtailed. Moreso, when evidence qua the petitioner fleeing from justice, or tampering with prosecution evidence, in the event of bail being granted, is also completely amiss.

5. Consequently, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody, if not required in any other case. However, the granting of bail to the bail applicant-petitioner, is subject to his furnishing personal and surety bonds in the sum of ₹50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance, unless validly exempted.

6. Copy dasti.

(SURESHWAR THAKUR)
JUDGE

April 22, 2022
Gurpreet

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