

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208-B

CRM-M-14531-2021 (O&M)
Date of decision: 14.07.2023

Sanjay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vijay Partap Singh, Advocate for the petitioner.

Mr. Rupinder Singh Jhand, Addl. AG Haryana.

Mr. P.S. Hundal, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.33 dated 05.03.2019, registered under Sections 420, 406, 120-B IPC, at Police Station Sadhaura, District Yamunanagar.

Custody certificate dated 14.07.2023 issued by the Deputy Superintendent, District Prison, Yamunanagar, submitted by the learned State counsel is taken on record.

As per the custody certificate, the petitioner was released on interim bail vide order dated 21.05.2021, but till the date of issuance of custody certificate, he did not surrender back.

Learned counsel for the petitioner submits that the petitioner was released on interim bail in view of the directions issued by the Hon'ble High Powered Committee and has not surrendered back till date. He prays for an adjournment.

I have heard the learned counsel for the parties.

Before proceeding further, the matter as regards maintainability of the instant petition under provisions of Section 439 Cr.P.C. needs to be discussed as the petitioner is presently not in custody and there is no order, at the moment, on the strength of which it could be said that he is enjoying any kind of protection from his arrest. As a matter of fact, the petitioner had previously been granted interim bail on account of spread of pandemic COVID-19 but despite the said instructions having been withdrawn since long, the petitioner not chosen to surrender.

Section 439 Cr.P.C. reads as under:

“439. Special powers of High Court or Court of Session regarding bail.-(1) A High Court or Court of Session may direct-

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in subsection (3) of section 437, may impose any condition which it considers necessary for the purposes mentioned in that subsection;

(b) that any condition imposed by a Magistrate when releasing an person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons

to be recorded in writing, of opinion that it is not practicable to give such notice.

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.”

The petitioner had initially been released on interim bail on 21.05.2021 pursuant to directions of High Powered Committee of this Court, which were extended thereafter from time to time but all such directions were ultimately withdrawn vide order dated 7.3.2022 passed in CWP-PIL No. 77 of 2021.

It has been informed that the petitioner till date has not surrendered despite the fact that all such interim bails, as had been granted earlier on account of COVID-19 have come to an end. As such, the instant petition under Section 439 Cr.P.C., wherein the petitioner is neither in custody nor is there any order to show that he is on interim-bail, is hereby dismissed, being not maintainable, at this stage.

Dismissed at this stage.

(HARNARESH SINGH GILL)

JUDGE

14.07.2023

Mangal Singh

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No