

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

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CRM-M-23733-2023

Date of Decision: 16.05.2023

Harjinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. J.K. Singla, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Balkaran Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.43 dated 25.02.2022 under Sections 365, 376-D, 379-B, 506 & 34 of Indian Penal Code, 1860 (for short 'IPC') (Section 201 of IPC added later on vide DDR No.08 dated 08.08.2022) registered at Police Station City-2, Mansa, District Mansa.

2. Learned counsel for the petitioner at the outset *inter alia* contends that this Court vide order dated 12.04.2023 passed in CRM-M-265-2023 has granted concession of regular bail to co-accused i.e. brother of petitioner against whom there are identical set of allegations.

3. Learned State counsel, on being confronted with order dated 12.04.2023 passed by this Court, does not dispute the factual position as

well as fairly concedes that role attributed to the petitioner is identical to role of co-accused i.e. brother of the petitioner.

4. The relevant extracts of order dated 12.04.2023 passed by this Court read as under:-

“6. In the case in hand, the prosecutrix has already been examined and she has turned hostile. Primarily there are contradictions in the FIR and statement recorded under Section 164 Cr.P.C. The Trial Court yet has to return definite findings on the disputed issues. There are 16 prosecution witnesses and till date only prosecutrix has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The petitioner is in custody since 10.05.2022. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. *Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.”*

5. Considering the role of the petitioner and afore-stated order passed by this Court in the case of co-accused, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

16.05.2023

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*