

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-29483-2022
Date of Decision: 24.02.2023

Rahul Dass alias Biltu Dass
.....Petitioner
Versus
UT, Chandigarh
....Respondent

CORAM:HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. D.S. Virk, Legal aid counsel for the petitioner.

Mr. Anupam Bansal, Addl. PP, UT Chandigarh for
Mr. A.M. Punchhi, PP, UT Chandigarh.

ANOOP CHITKARA, J.

FIR No.	Date	Police Station	Sections
0085	30.04.2022	392 & 34 IPC	Sector -36, Chandigarh

The petitioner apprehending arrest in the FIR captioned above, has come up before this Court under Section 439 CrPC seeking regular bail.

2. Counsel for the State submits that despite the petitioner's knowledge that he had been granted interim bail for a limited period of two months, he did not surrender. However, on instructions UT counsel submits that in pursuant to the directions of this court passed on 17.02.2023, the petitioner is present in the concerned police station. He further submits that bail of co-accused has already been dismissed vide order dated 19.01.2023 passed by this court in CRM-M-55331-2022.

3. On 21.09.2022, in CRM-31106-2022, Co-ordinate Bench of this Court had passed the following order:-

“Petitioner had filed CRM-M 29483/2022 under Section 439 Cr.PC for grant of regular bail in case FIR No.0085 dated 30.4.2022 u/s 392 and 34 IPC, PS Sector 36, Chandigarh.

On 12.9.2022, counsel for respondent filed short reply as well as custody certificate of the petitioner in Court and sought time to file an additional affidavit specifically mentioning therein the facts relevant for the adjudication of the instant application. The case was adjourned for today i.e. 21.9.2022.

Today, CRM 31106/2022 has been moved on behalf of the petitioner under Section 439 Cr.PC for grant of interim bail for 2 months from the date of his release from Jail on the ground that his wife is carrying 33 weeks pregnancy and there is no other family member to look after her. In support, OPD Slip of Sri Sukhmani Multispeciality Hospital, Derabassi has been attached wherein the factum of 32 weeks pregnancy is mentioned.

Learned counsel for UT Chandigarh has produced additional affidavit of Mr.Mridul, ASP (South-West). A perusal of the said additional affidavit shows that during verification, statement of wife of the petitioner, landlord and neighbourer of the petitioner has been recorded who have stated that wife of the petitioner is living alone in rented accommodation at Room No.9, Baru Colony, Market Kurewala, Derabassi, Mohali with her two minor children.

Keeping in view of the facts and circumstances as well as contents of the additional affidavit and statements recorded by police during verification, the present application is allowed and petitioner is directed to be released on interim bail for a period of two months, commencing from the date of release of the petitioner, upon his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate.

CRM 31106/2022 stands disposed of.

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List on 12.12.2022 for further orders.”

4. I have gone through the record and keeping in view the conduct of the petitioner that after release on interim bail, he failed to surrender before the trial court, no case for bail is made out at this stage. Consequently, the present petition is **dismissed**. The concerned SHO is directed to take the petitioner into custody and produce before the concerned trial Court/Illaq Magistrate/Duty Magistrate forthwith.

5. At this stage, learned legal aid counsel submits that non-compliance by the petitioner should not be construed against him in case he files a regular bail

petition for the reasons that probably the petitioner can not understand the order in letter and spirit.

6. Prayer of legal aid counsel is genuine.
7. It is clarified that it shall be permissible for the petitioner to file regular bail petition and the observations made above shall not be taken against the petitioner in any manner whatsoever and his fresh petition for bail shall be decided on its own merits.
8. *There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*
9. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

24.02.2023
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Whether speaking/reasoned	Yes/no
Whether reportable?	Yes/no