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

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CRM-M-34622-2023

Date of decision : 25.07.2023

Lucky Dutt**..... Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Sahil Soi, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.158, dated 04.08.2022, registered for offences under Sections 379-B, 379 and 411 of IPC, at Police Station Kharar, District SAS Nagar (Mohali).

2. Counsel for the petitioner relies upon order dated 31.05.2023 passed in CRM-M-57060-2022 (Annexure P-2), whereby co-accused Abdul Khan @ Bablu has been granted concession of bail observing as under:-

“The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 0158, dated 04.08.2022, under Sections 379, 379-B and 411 of IPC, 1860, registered at Police Station Kharar, District SAS Nagar (Annexure P-1).

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the

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present case and six motorcycles were got recovered at his instance. It is asserted that the petitioner has been made a scapegoat in the present FIR at the instance of police party just to strengthen the gravity of the offence.

3. Custody certificate of the petitioner filed by the counsel for the State is taken on record. According to which the petitioner has suffered incarceration for a period of 9 months and 25 days as of now. Learned State counsel has opposed the prayer made in the present petition stating that the petitioner has been produced on production warrants in another case bearing FIR No. 121, dated 03.08.2020, in which he is no bail.

4. Considering the factum of custody period suffered by the petitioner till today as well as the story of prosecution, which has been disputed by the counsel for the petitioner wherein, recovery of motorcycles have been planted upon without having any reference to any particular FIR or complaint qua the stolen vehicles, apart from the afore-said fact the petitioner cannot be detained for an indefinite period on account of prolonged trial inasmuch as wherein, charges stands framed on 03.11.2022 and none has been examined so far, therefore, it could be easily inferred that the trial is moving at snail's pace and will take considerable time to conclude.

5. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

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6.

The present petition is allowed in the afore-said terms.
7.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.”
3.

He submits that bare perusal of the FIR would reveal that there is no difference between allegations faced by the two co-accused and thus claims parity.
4.

State counsel is not in a position to dispute the fact that the allegations levelled against the petitioner are at par with those faced by Abdul Khan @ Bablu.
5.

In view of above, present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.
6.

Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

25.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No