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

CRM-M-40187-2023 (O&M)

Date of Decision : 13.10.2023

HANS RAJ

.... Petitioner

VERSUS

STATE OF PUNJAB

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Abhishek Bansal, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

ALKA SARIN, J. (ORAL)

CRM-43217-2023

Application is allowed, as prayed for. Amended petition is taken on record. Registry to scan the same and tag at the appropriate place.

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1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.136 dated 09.09.2020 registered under Sections 376-D, 450, 506 of the Indian Penal Code, 1860 at Police Station Bahawala, District Fazilka.
2. Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of 5 months and 21 days. It is further the contention of the learned counsel that there is only one other case

against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 wherein the petitioner stands convicted and in an appeal against the said order, his sentence has been suspended. Learned counsel would further contend that in the present case the alleged incident is dated 09.09.2020 at about 9:30 a.m. and the complainant went for her medical examination on the same day at about 2:00 pm. Learned counsel would further contend that the DNA appended with the status report by way of an affidavit of Avtar Singh, PPS, Deputy Superintendent of Police, Abohar (Rural), District Fazilka (Annexure R-3) is negative. It is further contended that the similarly situated co-accused, against whom identical allegations have been made, was granted the concession of anticipatory bail by the Hon'ble Supreme Court in Criminal Appeal No.1971-2023 arising out of SLP No.5914-2023 titled as 'Rati Ram vs State of Punjab and Another' vide order dated 17.07.2023.

3. Learned counsel for the State has filed the status report by way of an affidavit of Avtar Singh, PPS, Deputy Superintendent of Police, Abohar (Rural), District Fazilka along with copy of the MLR and the FSL Report. The same is taken on record. Registry to scan the same and tag at the appropriate place. Learned counsel for the State has also filed the custody certificate and as per the custody certificate, the petitioner has been in custody for a period of 5 months and 21 days

4. Learned counsel for the State has pointed out that the complainant has supported the case of the prosecution in her statement

recorded under Section 164 of CrPC. He is, however, not in a position to refute the fact that the DNA Report in the present case is negative. Learned counsel is also not in a position to dispute the fact that the similarly situated co-accused, against whom identical allegations have been made, was granted the concession of anticipatory bail by the Hon'ble Supreme Court in Criminal Appeal No.1971-2023 arising out of SLP No.5914-2023 titled as 'Rati Ram vs State of Punjab and Another' vide order dated 17.07.2023.

5. Heard.

6. In the present case the petitioner has been in custody for a period of 5 months and 21 days. There is one other case against the petitioner under Section 138 of the Negotiable Instruments Act, 1881, wherein the petitioner stands convicted vide judgment of conviction dated 09.03.2016 passed by the learned Additional Sessions Judge and sentenced to undergo rigorous imprisonment for a period of 6 months and to pay fine of Rs.1,000/-. In an appeal against the said judgment of conviction, the sentence of the petitioner has been suspended. Similarly situated co-accused, against whom identical allegations have been made, was granted the concession of anticipatory bail by the Hon'ble Supreme Court in Criminal Appeal No.1971-2023 arising out of SLP No.5914-2023 titled as 'Rati Ram vs State of Punjab and Another' vide order dated 17.07.2023. The DNA Report has also since been received which is negative qua the present petitioner. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any

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further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed of. Pending applications, if any, also stand disposed of.

13.10.2023
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: *Whether speaking/non-speaking: Speaking*
 Whether reportable: YES/NO