

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

CRM-M No.44356 of 2023 (O&M)

Date of decision : 13.09.2023

Gaurav Dev @ Gagan

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. B.D.Sharma, Advocate for the petitioner.

Mr. Amit Shukla, Asst. A.G., Punjab.

PANKAJ JAIN, J. (ORAL)

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.132 dated 23.09.2020 registered under Sections 379-B/341/201/120-B IPC (offence under Sections 341/201/120-B IPC added later on) at Police Station Jhander, District Amritsar Rural.

2 Custody certificate has been filed. The same is taken on record.

3 Learned counsel for the petitioner contends that after having been arrested in FIR No.152 dated 02.11.2020 registered for the offences punishable under Sections 302 and 34 IPC and Sections 25, 54 & 59 of Arms Act at Police Station Jhander, District Amritsar, the petitioner along with co-accused Harwant Singh @ Harry is stated to have made extra judicial confession, which forms basis of their nomination in the present case. Harwant Singh @ Harry, the co-accused stands admitted to regular bail vide order dated 19.07.2023 passed in **CRM-M-30524-2023** observing as under :-

“3. Counsel for the petitioner further submits that apart from the said extra judicial confession alleged to have been made by the petitioner,

there is no incriminating evidence against him. Investigation already stands concluded, the trial has progressed considerably and all material witnesses including the complainant stand examined.

4. Counsel for the State is not in a position to dispute the factual assertions made by counsel for the petitioner on the basis of record. However, he submits that keeping in view the criminal antecedents of the petitioner, he does not deserve concession of regular bail.

5. After hearing counsel for the parties, without commenting on the merits of the case and keeping in view the incarceration already suffered by the petitioner which is more than 02 years, 08 months and 09 days, the present petition is allowed. The 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.”

4 Learned State counsel does not dispute that the petitioner is similarly placed as Harwant Singh @ Harry.

5 The petitioner has undergone incarceration of more than 2 years, 10 months & 5 days and apart from the said FIR No.152 dated 02.11.2020, there is no other case pending against the petitioner.

6 I have heard learned counsel for the parties and have gone through the records of the case.

7 Without commenting on the merits of the case by granting parity with co-accused and considering the incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

13.09.2023

Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No