

208.

2023:PHHC:165449

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

CRM-M-52166-2023

Date of decision: 22.12.2023

Sunil Kumar

.... Petitioner

Versus

State of U.T., Chandigarh

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. M.K. Bhardwaj, Advocate, for the petitioner.

Mr. Manish Bansal, P.P., U.T., Chandigarh.

GURBIR SINGH, J. (Oral)

1. This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.70, dated 21.11.2022 registered under Sections 379-B, 411, 34 IPC at Police Station Sector 49, Chandigarh, during the pendency of trial. The earlier petition i.e. CRM-M-9585-2023 was withdrawn vide order dated 17.03.2023.

2. The aforesaid FIR was registered at the behest of Arun Kumar, complainant, with the averments that on 21.11.2022 at 1:20 PM, he reached Sports Complex, Sector 50, Chandigarh and stopped to attend call of nature. In the meantime, two boys came on motorcycle and stopped near him and tried to snatch away his mobile phone. A fight took place and one of the boys inflicted head injury on the complainant and second boy caught hold of him from back and former boy took out his mobile phone and cash of Rs.4,000/- from his pocket and fled away from the spot along with their motorcycle.

The complainant noted down the registration number of the motorcycle and also apprehended one of the boys.

3. Learned counsel appearing on behalf of the petitioner contends that the petitioner has been falsely implicated in this case. He is in custody since 21.11.2022. It is a case of no injury. No recovery was effected from the petitioner except the motorcycle. Although he was arrested at the spot, but the recovery was effected from the co-accused who is not facing trial and still at large. Since investigation qua the petitioner is complete and nothing is to be recovered from him, so, no useful purpose would be served by keeping him behind bar any longer.

4. Learned counsel appearing on behalf of U.T., Chandigarh has filed the custody certificate dated 22.12.2023, which is taken on record. He has opposed the bail to the petitioner by contending that the petitioner is a habitual offender and if he is released on bail, he may influence the witnesses. He submits that out of 13 witnesses, 11 have been examined and the trial is at fag end.

5. I have heard learned counsel for the parties and have gone through the paper book.

6. As per custody certificate dated 22.12.2023, the petitioner is in custody for the last more than 1 year and 28 days. Considering the fact that no injury has been attributed to the petitioner and nothing incriminating has been recovered from him and completion of trial will take long time, so petitioner deserves concession of bail.

7. Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on

regular bail, on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

8. However, any observation made herein shall not be construed as an expression of opinion on merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

December 22, 2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No