

244 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 56852 of 2023 (O&M)

Date of Decision:- 16.11.2023

MOHAMMAD SAJID ... Petitioner

Versus

STATE OF PUNJAB ... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mohammad Salim, Advocate for the petitioner.

Mr. Anmol Singh Sandhu, Punjab.

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SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
160	25.11.2014	325, 323, 324, 427, 34, 148, 149 IPC (lateron 326 IPC added)	Amargarh, District Sangrur

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner was though named in the FIR but after investigation challan was presented and petitioner was placed in column No.2 of the Challan. He further submits that application moved by the prosecution under Section 319 Cr.P.C. to summon the petitioner and face the trial in the above noted FIR was allowed on 07.03.2018 by the learned Judicial Magistrate Ist Class, Malerkotla (Annexure P-3) and faced with the situation

petitioner moved application for anticipatory bail and vide order dated 07.09.2018 (Annexure P-4) petitioner was granted concession of anticipatory bail and pursuant thereto petitioner had submitted the requisite personal and surety bonds. The petitioner failed to appear before the trial Court and his bail was cancelled and declared as proclaimed person vide orders dated 15.01.2019. Petitioner moved this Hon'ble Court and vide orders dated 15.09.2023 (Annexure P-5) petitioner was directed to surrender and seek regular bail before the concerned Court. He submits that in compliance of the orders dated 15.09.2023, petitioner had surrendered on 21.09.2023 and applied for regular but learned trial Court dismissed the regular bail of the petitioner vide order dated 02.11.2023 (Annexure P-6) on flimsy ground. He submits that petitioner is behind bar since 21.09.2023 and conclusion of trial would take long time and as such he prayed for grant of concession of regular bail to the petitioner.

3. Learned State counsel on the other hand opposed the bail application by submitting that the petitioner was summoned under Section 319 Cr.P.C. and after granting concession of bail, he had failed to appear before the learned trial Court and as such was declared as proclaimed person. He admits that in compliance of the order dated 15.09.2023 passed by this Court, petitioner had surrendered on 21.09.2023.

4. Considering the facts and circumstances of the case and perusing the record, it is admitted that the petitioner was not challaned after conclusion of the investigation by the police but later on during the course of trial, on the application under Section 319 Cr.P.C, he was summoned as additional accused by the learned trial Court for the offences triable by the

Court of Magistrate. Consequent thereto, the petitioner failed to appear in the trial Court and was ultimately declared as proclaimed person. It is also admitted that vide order dated 15.09.2023 passed in CRM-M 46463 of 2023, the petition filed by the petitioner had been withdrawn and consequent thereto he had surrendered in the trial Court on 21.09.2023 and since then he is in custody and no purpose would be served by detaining the petitioner in custody any longer as the conclusion of trial will take sufficient long time and his criminal liability, if any, could only be determined after conclusion of trial.

5. Resultantly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

6. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

16.11.2023

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No