

2023:PHHC:160684

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

234

CRM-M-61719-2023

Date of decision : 14.12.2023

Deepak Kumar @ Gora**..... Petitioner**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Vipin Sharma, Advocate for
Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
with Gurmail Singh, Advocate.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.102 dated 02.05.2023, registered for the offences punishable under Sections 379-B(2) and 34 of IPC (Section 411 of IPC added later on) at Police Station Haowal, District Police Commissionerate, Ludhiana.

2. Counsel for the petitioner relies upon order dated 09.10.2023 passed in **CRM-M-47588-2023**, wherein co-accused, namely, Bablu Mahathur @ Maggu has been granted bail observing as under:-

“Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 102 dated 2.5.2023, registered for the offences punishable under Sections 379-B (2), 34 IPC, at Police Station

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Division Habowal, District Police Commissionerate Ludhiana.

2. Learned counsel for the petitioner submits that it is a case wherein the complainant in the initial part of the FIR levelled allegations against unknown, however, later on has named the present petitioner to be one of those unidentified persons. Even though he has not disclosed as to how he came to know the name and complete address of the petitioner. Thus there cannot be any apprehension that the petitioner shall tamper with any evidence; the custody of the petitioner cannot be prolonged as a punitive measure.

3. The prayer made by learned counsel for the petitioner is being opposed by the State counsel and submits that apart from the allegations levelled in the F.I.R the petitioner is a habitual offender having earned conviction for offence punishable under Section 411 IPC earlier in time as well.

4. Faced with such situation, learned counsel for the petitioner submits that the said conviction already stands served. The petitioner was convicted for 24 days. Apart from that he relies upon Faced with this situation counsel for the petitioner relies upon Prabhakar Tewari Vs. State of UP and Anr., 2020 (1) RCR (Criminal) 831 to submit that the involvement of the petitioner in those FIR cannot be a ground to deny bail.

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

6. Keeping in view the incarceration suffered by the petitioner and the fact that conviction already stands served, petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to

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the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

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

4. Granting parity and keeping in view the incarceration already suffered by the petitioner who is behind bars since 03.05.2023, the 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.

5. 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

14.12.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No