

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1233-2024
DECIDED ON: 16.01.2024

GURPREET SINGH ALIAS GOPIPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manoj Pundir, Advocate and
Ms. Shikha Goyal and Ms. Ramandeep Kaur, Advocates
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., for grant of regular bail to the petitioner in FIR No.468, dated 23.11.2021 (Annexure P-1), under Sections 457 & 380 IPC (Sections 411, 201 & 34 IPC were added later on), registered at Police Station City Jagadhri, District Yamuna Nagar, Haryana.
2. It is a case where the petitioner could not appear before the trial Court on 27.10.2023, due to ignorance and miscommunication between him and his counsel despite he was already enjoying the concession of regular bail.
3. It is on that very date, on account of absence of the petitioner as well as his counsel, his bail was cancelled and bail bonds were forfeited to the State and non-bailable warrants were issued, therefore, the petitioner preferred application under Section 439 Cr.P.C. for seeking regular bail before the trial Court, which has been declined on the ground that there is a considerable delay in disposal of the case pertaining to the action plan for the year 2023-2024 and found the case to be not fit for grant of bail to the petitioner. It is also recorded in the order that the petitioner has misused the concession of regular bail and he is a habitual offender.
4. On the other hand, learned State counsel on instructions from ASI Surjit Singh, informs the Court that now the next date of hearing before the trial Court is 19.01.2024.

5. Be that as it may, it is an isolated instance, where the petitioner could not appear on 27.10.2023 specifically alleging that there was a communication gap between him and his counsel, who was earlier appearing on his behalf and on that account bail bonds and surety bonds were forfeited to the State. Thereafter, the petitioner by showing bona fide, has immediately approached the trial Court for seeking concession of regular bail and being a law abiding citizen surrendered before the trial Court and is in custody since 06.12.2023.
6. Looking into the totality of facts and circumstances, this Court does not agree with the observations made by the trial Court to decline the bail on the ground that there is a considerable delay in disposal of the case pertaining to action plan for the year 2023-24 and only instance of absence would not make him a habitual offender. The trial Court has not considered or brought on record the reasons for considerable delay in the trial of the instant case as to whom it is attributed and mere reference to that would not become a reason to decline the petitioner of his personal life and liberty, who has shown bona fide and surrendered on 06.12.2023, once the regular bail application was declined by the trial Court.
7. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
8. In the afore-said terms, the present petition is hereby allowed.
9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

16.01.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>