

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

105+215

CRM-M-21042-2023 (O&M)

Date of Decision:- 09.01.2024

SURINDER SINGH ALIAS RAJU

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Kulwinder Singh, Advocate for the petitioner.

Mr. Gurpreet Singh Sandhu, DAG Punjab.

.....

SANJIV BERRY, J. (ORAL)

CRM-363-2024

Heard.

Keeping in view the averments made in the application, same is allowed. Annexure P-10 is ordered to be taken on record, subject to just exceptions.

CRM-M-21042-2023

Custody certificate of the petitioner filed by learned State counsel is taken on record.

2. 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 :-

FIR No.	Dated	Sections	Police Station
34	21.02.2021	379-B, 379, 411 of IPC	City-2 Mansa, District Mansa

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner after having been arrested in the aforesaid FIR, was granted bail vide order dated 23.07.2021 (Annexure P-2) by learned Additional Sessions Judge, Mansa and thereafter he had been regularly appearing in the Court. However, on 20.12.2021, the petitioner could not appear in the Court and vide order dated 20.12.2021 (Annexure P-6), the bail of the petitioner was cancelled by the learned trial Court. He submits that the absence of the petitioner was not intentional but due to the fact that he was arrested in another case bearing FIR No.32 dated 20.02.2021, Police Station City-2 Mansa and was not produced in the Court by the Jail authorities in this case. Thereafter, the petitioner was declared as proclaimed offender vide order dated 18.05.2022 (Annexure P-7) and later was arrested in this case on 21.05.2022. He submits that the petitioner is in custody since then and challan has already been presented against him. As such, he has prayed for concession of bail to the petitioner.

4. *Per contra*, learned State counsel has opposed the bail on the ground that he has already misused the concession of bail and as such, he is not entitled to the concession of bail now and has also referred to other cases pending against the petitioner.

5. Heard learned counsel for the parties and perused the record.

6. After considering the rival contentions and perusing the record, it transpires that admittedly the petitioner had been granted bail in this FIR vide order dated 23.07.2021 (Annexure P-2), however, due to his absence on 20.12.2021, his bail was cancelled and he was ordered to be served through

non-bailable warrants of arrest. As per the learned counsel for the petitioner, the petitioner could not appear in the Court having been arrested in another case bearing FIR No.32 of 2021, Police Station City-2 Mansa and the jail authorities had not produced him on the date fixed and as such his absence was not intentional. Thereafter, the petitioner was declared as Proclaimed offender in this case and was subsequently arrested on 21.05.2022 and since then he is in custody. Admittedly, challan has already been present in the Court and the petitioner is facing trial. Therefore, in these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate 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.

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

8. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)
JUDGE

09.01.2024
S.Sharma(syr)

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