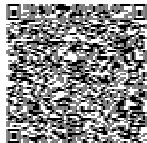


2024:PHHC:152640



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

106+220

CRM-M-48666-2024 (O&M)
Date of decision: 20.11.2024

Gurmail Singh ...Petitioner

Versus

State of U.T., Chandigarh ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. A. K. Khunger, Advocate
for the petitioner.

Mr. Manish Bansal, Public Prosecutor, U.T., Chandigarh.

Mr. Pushpinder Kaushal, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. CRM-45803-2024

Allowed as prayed, subject to all just exceptions.

Documents are taken on record as Annexures A-1 to A-5.

2. CRM-M-48666-2024 (O&M)

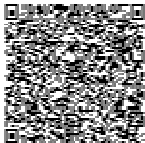
Prayer in this petition, filed under Section 483 of Bhartiya
Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for grant of regular bail
to the petitioner in case arising out of FIR No. 139 dated 01.08.2024,
registered under Sections 409, 420, 467, 468, 471, 120-B of IPC at Police
Station 17, Chandigarh.

2024:PHHC:152640



3. In compliance with order dated 13.11.2024, fresh reply has been filed by the respondent-U.T., Chandigarh, which is taken on record. It is submitted therein and learned Public Prosecutor has argued that in fact the petitioner is involved in two FIRs, i.e. the present FIR bearing No. 139 and FIR No. 135 dated 24.07.2024, which has also been registered under Sections 409, 420, 467, 468, 471, 120-B of IPC at Police Station 17, Chandigarh. It is submitted that the petitioner was arrested in FIR No. 135 and thereafter, on registration of the present FIR on 01.08.2024, he was arrested in this case as well on 11.11.2024 by way of production warrant. Hence, the present petition, which has been filed by the petitioner seeking grant of regular bail in case arising out of FIR No. 139 on 03.10.2024 is not maintainable as he was not in custody on 03.10.2024 in the present case. It is further submitted that the applications filed by the petitioner for grant of regular bail in FIR No. 135 as well as for grant of anticipatory bail in FIR No. 139 had been heard and decided together by the Court of learned Additional Sessions Judge, Chandigarh on 19.09.2024, thereby dismissing both the applications. However, the application filed by the petitioner for grant of anticipatory bail in FIR No. 139 was dismissed by the said Court while treating it to be an application for grant of regular bail, with a misconception as if the petitioner was in custody in FIR No. 139, although on the said date, the petitioner had not been taken into custody. Hence, it is argued by learned Public Prosecutor that the present petition is not maintainable as the petitioner has not availed his remedy of filing an application before the Court below first and has directly approached this Court.

2024:PHHC:152640



4. Faced with the same, learned counsel for the petitioner seeks withdrawal of the present petition with liberty to approach the Court below first for grant of regular bail to the petitioner in the present case.
5. In view of the aforesaid facts and circumstances, the present petition is dismissed as withdrawn with liberty as prayed for.

20.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

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