

CRM-M-512-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-512-2022
Reserved on: 04.02.2022
Pronounced on: 09.02.2022

Anil ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Pawan Kumar Hooda, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
333	12.09.2020	Sadar Gohana, District Sonapat	148, 149, 302, 342, 365 & 506 IPC (Sections 148 & 149 IPC deleted and Section 34 IPC added later on)

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 12 of the petition, it is declared that the accused has no criminal history except FIR No.141 dated 28.04.2020 under Excise Act and 188 IPC.
3. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. Learned State counsel, on instructions received from the concerned police officials, opposed the bail on merits.

REASONING:

5. As per the latest medical opinion, the cause of death was the combined effect of injuries mentioned in the post mortem report. Although the deceased had liver disease, that was not the cause of death as is prima facie inferable from the latest medical opinion. In the FIR, Sumit Kumar, the complainant (PW-4), alleged that he had seen five persons, including the petitioner, inflicting injuries on his elder brother Amit. During the

CRM-M-512-2022

trial, in his examination-in-chief, he again named all the five accused who have caused injuries in his presence. However, on the day of the examination-in-chief, the defence counsel was able to procure an adjournment on the grounds of his ill health, and the trial court deferred the cross-examination of Sumit Kumar. After a gap of more than two months, when he was re-examined, the eye witness took a summersault and contradicted his previous versions. The petitioner seeks bail primarily on the ground that none of the four eye witnesses, including the real brother of the deceased have supported the prosecution's case. However, in my considered opinion, it is for the trial court to analyse his previous statements and contradictory versions to conclude his credibility. This court ought not to give any finding on the credibility because such an approach is most likely to prejudice the accused or the prosecution. Given this, the petitioner fails to make out a special case for bail.

6. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence of a prima facie case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application. The courts can release on bail, provided the circumstances then prevailing requires, and a change in the fact situation. In State of Rajasthan v Balchand, AIR 1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh when considering the question of jail. So also, the heinousness of the crime. In Gudikanti Narasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC 280, Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations. In Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously,

CRM-M-512-2022

compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

7. In the light of the judicial precedents mentioned above, the petitioner's case does not fall in the category of cases where bail ought to be granted.

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

February 09, 2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.