

CRM-M-5416-2022 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5416-2022 (O&M)
Reserved on: 16.03.2022
Pronounced on: 04.04.2022

Hardev Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. N.K. Verma, Advocate for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
304	10.12.2021	Moti Nagar, Ludhiana	379-B, 148 & 149 IPC (subsequently Section 379-B IPC has been deleted and Sections 394, 320-B & 411 IPC added)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 11 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the petitioner has been arraigned on the basis of the statement of the co-accused in custody to the police, which is inadmissible in view of section 25 of Indian Evidence Act, 1872. Ld. counsel further submits 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. Ld. counsel appearing for the State contends that the petitioner has indulged in snatching and such incidents are rising, and it's the time to sternly nip the evil in the bud. Ld. counsel further submits that the custodial investigation would be required to unearth the racket and the mafia.

REASONING:

5. The relevant portion of paragraph 5, of the status report filed by Assistant Commissioner of Police, Industrial Area-A, Ludhiana, reads as follows, "*Call details of*

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the accused were also obtained and the same were at the/ near the place of crime." A perusal of the bail petition, except the general submissions, does not offer any grounds based on which this court is satisfied for the grant of anticipatory bail.

6. The allegations are serious and offence heinous. The evidence collected so far points out the location of the accused near the spot of crime. The chain of events as reflected in the status report, does not entitle the petitioner to anticipatory bail under section 438 CrPC.

7. The young age of the accused, i.e. 19 years, alone is not a ground to grant bail under section 438 CrPC, however, it might be a consideration while taking up regular bail under section 439 CrPC. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

8. 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 GudikantiNarasimhulu 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,

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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.

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

10. 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 at this stage.

11. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All interim orders granting bail stand vacated.

All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

04.04.2022
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Whether speaking/reasoned: Yes
Whether reportable: No.