

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5621-2021
Reserved on: 25.03.2022
Pronounced on: 22.04.2022

Sukhdev Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Divij Datt, Advocate for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

Mr. B.S. Jatana, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
79	13.08.2020	Jaurkian, District Mansa	302, 341, 323, 324 and 34 IPC

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (Cr.P.C) seeking bail.
2. In paragraph 10 of the bail petition, the petitioner explicitly stated as follows, "That there is no case of any kind lodged against the petitioner nor is he PO in any case." However, as per the status report filed by the State, the petitioner was convicted for life imprisonment under section 302 IPC vide judgment dated 29-01-1979, and was also sentenced for 3 years imprisonment under Section 307 IPC.
3. Ld. Counsel for the petitioner contends that the fatal blow was not attributed to the petitioner and further pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. While opposing the bail, Ld. counsel representing the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail. The

contention of behalf of the complainant is that the petitioner has been arraigned with the aid of section 34 IPC, as an accused for sharing common intention of all to commit the murder.

REASONING:

5. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

6. The investigation reveals that the petitioner Sukhdev Singh had encircled the complainant party, and Jagsir Singh, son of the petitioner, along with two unknown persons had caught them, and Jagsir Singh had given a blow by the small sword (Kirch) at the neck of Manpreet Singh, piercing the neck. When Baljinder Singh tried to save Manpreet, Sukhdev Singh, the petitioner herein, inflicted a hand pump iron rod blow on his forehead.

7. The evidence collected in the investigation, prima facie implicates the petitioner with the aid of section 34 IPC. Section 437(1) (ii) Cr.P.C states that a person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life, or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a cognizable offence punishable with imprisonment for three years or more but not less than seven years. Apart from the legislative restriction, a perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, then he shall not indulge in criminal behavior.

8. 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. However, it shall be open for the petitioners to file new bail application(s) after recording the statements of witnesses other than official and formal witnesses, by offering valid and believable reasons that if released on bail, he shall not indulge in criminal activities. The dismissal of this petition shall not come in the way while considering the fresh petition(s).

9. 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 pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

22.04.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.