

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8311-2022
Reserved on: 18.04.2022
Pronounced on:11.05.2022

Rajesh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sunny Bhardwaj, Advocate,
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
109	31.05.2019	Dujana, District Jhajjar, Haryana	346, 302, 201, 364, 120-B and 34 of IPC

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 (Cr.P.C) seeking bail.
2. In paragraph 19 of the bail petition, the accused declares that he has no criminal antecedents.
3. On May 30, 2019, the complainant informed the police that his father was missing, and the police registered a report. On June 1, 2019, the people noticed a headless dead body, which was identified to be of the missing person. After tervi of the deceased, the complainant came to know that at 12 midnight, three persons were going on a motorcycle and Rajesh (petitioner) was driving the bike, the deceased was sitting in the middle, and Harbir was on the back seat. Based on this apprehension, these two persons were arrested on the evidence of last seen, and these could not offer any explanation about the deceased's terminating their company before his murder.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. Ld. counsel representing the State opposes bail.

REASONING:

6. Ld. Counsel for the accused argued that the dead body allegedly recovered is not of the missing person Satyanarain, and the petitioner is in custody on the allegations of murdering him. Ld. counsel submits that there is a difference in the length of the body as mentioned in post mortem report and the height of Satyanarain, the missing person. In response, the status report mentions an unintentional error, and instead of 152 cm, the length of the body has been stated as 182 cm. Be that as it may, the dead body was headless, and the length would vary depending upon the portion of the neck that was slit, and all this is a subject matter of cross-examination by the doctor and the family members and the police officer, who had prepared inquest report. This disputed question of fact cannot be considered at the bail stage.

7. 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 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, 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. 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 pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

11.05.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.