

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8852-2022
Reserved on: 23.03.2022
Pronounced on: 19.04.2022

Satish @ Leela ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rajesh Malik, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
126	21.04.2019	Nissing, District Karnal	120-B, 148, 149, 302, 323, 324, 452 IPC and 25, 54, 59 of Arms Act

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 15 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The contention on behalf of the State is that recovery is yet to take place, and bail encourages criminals.

REASONING:

5. In furtherance of a well hatched conspiracy, executed through an attack by a number of people, two persons were killed at the spot itself. Although PW-1 & PW-2, the family members of the deceased, turned hostile and did not support the prosecution's case, yet so many crucial witnesses are left to be examined. Keeping in view the gravity of offence, the petitioner is not entitled to any bail until statements of all non-police officials have been recorded, or on the grounds of prolonged custody. An

analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

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 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, 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 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.

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) in changed circumstances or after recording the statements of witnesses other than official

witnesses, whichever is earlier. 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

19.04.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.