

CRM-M-19893-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19893-2021
Reserved on: 08.04.2022
Pronounced on: 07.05.2022

Manish Singh @ Golu ...Petitioner

Versus

State of UT Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Anna Thakur, Legal Aid Counsel
For the petitioner.

Mr. Ashu Mohan Punchhi, Public Prosecutor, UT Chandigarh
With Mr. Anupam Bansal, APP for UT Chandigarh.

Mr. S. S. Narula, Advocate
For applicant-respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
37	17.03.2020	Sector-3, Chandigarh	323, 379, 452, 511 & 34 of Indian Penal Code and Sections 307 & 397 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 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. On Mar 17, 2020, the complainant informed the police that her husband went up to check the same after hearing noises from the roof. Two boys were there to steal copper wires. On being confronted, they hit her husband, and he got severe injuries and was hospitalized.
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. The contention of behalf of the complainant is that the accused gave multiple blows of face and head and penetrated

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screwdriver in his eye. He remained admitted in PGI and despite best medical care, he has lost vision from an eye and gets seizure. Ld. counsel referred to the medical records to establish that the victim lost his eye, skull and entire jaw had to be resurrected, and had to be given food through a tube inserted through his neck.

REASONING:

6. The petitioner has brutally assaulted an unarmed middle-aged person. Cruelty is one of the factors in deciding on bails. A cruel person is more likely to create a lot of insecurity in any society. Once the courts form a prima facie opinion that the accused acted with cruelty, then such an accused ordinarily should not be granted bail, and if the courts deem it appropriate to grant, then it must be after specifying the reasons for such an indulgence. In the present case, an analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

7. 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

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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.

8. 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.

9. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail during the trial.

10. 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

07.05.2022
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Whether speaking/reasoned: Yes
Whether reportable: YES.