

CRM-M-20714-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20714-2021
Reserved on: 08.04.2022
Pronounced on: 09.05.2022

Vijay alias Sonu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rakesh Kumar Nehra, Sr. Advocate with
Mr. Sauhard Singh, Advocate
For the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
06	11.01.2020	Bahu Akbarpur, District Rohtak (Haryana)	148, 149, 323, 364 & 302 IPC (added later on) and Section 25 of Arms Act (deleted subsequently)

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 19 of the bail petition, the accused declares that he has no criminal antecedents.
3. On Jan 11, 2020, the police recorded the statement of the victim under section 154 CrPC, who was injured but alive at that time. He stated that during elections, he had inflicted injuries on Sombir, and an FIR was registered against him in this regard. He narrated that on Jan 10, 2020, at 7 PM, Deepak alias Ghora, Bhola s/o Dilbag, Sonu son of Kartar, another Sonu waylaid him, and at gun-point made him board their car, and badly thrashed him inside the car, and after some time made him get down from the car and again inflicted injuries by proclaiming that they would teach him a lesson for assaulting Sombir. On hearing his shrieks, Vijay and Ankit rushed to the spot, and the assailants fled away. The victim was taken to the hospital, where he made her statement; however, on January 16, 2020, he succumbed to the injuries.

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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. The FIR is registered based on the victim's statement, and it is prima facie admissible as a dying declaration. The petitioner has not made any imputations against the deceased for false implications. The grounds that the petitioner was unfit for making the statement and the statement was concocted, or that the statements of Vijay and Ankit recorded under section 161 CrPC do not mention his presence, and no specific injuries were attributed to him are not grounds for granting bail because the petitioner has been arraigned as an accused with the aid of sections 148 and 149 of IPC, i.e., with the common object of beating and assaulting him. 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 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

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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.

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 at this stage.

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

09.05.2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.