

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19225-2022
Reserved on: 07.07.2022
Pronounced on: 18.07.2022

Lucky ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.K. Choudhary, Advocate for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
41	08.03.2022	Division No.2, Pathankot	379-B (2), 34 IPC and Section 25 of Arms Act

1. The petitioner, incarcerated for around four months 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 16 of the bail application and status report, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	38	07.03.2022	379-B (2), 34 and 411 IPC and 25/54/59 A of Arms Act.	Division No.2 District Pathankot

3. The petitioner alongwith other gang members allegedly snatched the car from the complainant at the gun point.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. 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.

REASONING:

6. 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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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.

7. The previous FIR is also under similar offences. 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. Apart from this, the allegations

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 and formal witnesses, whichever is earlier. If the statements mentioned above are not recorded within six months, the petitioner may file a fresh bail petition on the grounds of prolonged custody. 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

18.07.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.