

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29655-2021
Reserved on: 04.04.2022
Pronounced on: May 05, 2022

Akash ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rajesh Kapila, Advocate for
Mr. Rahul Arora, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0274	31.12.2020	Guruharsahai, District Ferozepur	307/341/427/506/148/149 IPC 1860 and Section 25 and 27 of Arms Act, 1959

1. The petitioner, incarcerating upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.

2. In paragraphs 1 and 10 the petitioner explicitly stated that he has no criminal history; however as per the status report and the instructions given to the State’s counsel, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	17	2019	379, 411 IPC & 25, 54, 59 Arms Act	Mamdot
2	90	2017	353, 452, 427, 506, 201, 34 IPC	Mamdot
3	43	2017	452, 324, 323,506, 148, 149 IPC and Sections 25, 27, 54, 59 of Arms Act	Mamdot

3. The complainant’s version is that on refusal to compromise an earlier matter, the accused party, of whom, the petitioner was armed with a pistol, assaulted them and the petitioner fired a shot on Deepak, which missed the target hitting on the vehicle, whereas the shot of his accomplice Ninder hit the thigh of the complainant.

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. As per FIR, the petitioner had fired a shot from a pistol aiming at Deepak, however, it missed and hit the car. The other member of the gang, also fired a shot which injured the complainant. Thus, based on the serious allegations, the petitioner is not entitled to bail. On the point of prolonged pre-trial custody, the petitioner was arrested on 13-04-2021, i.e., for a period of more than one year; however, keeping in view the nature of allegations, the custody cannot be termed as prolonged. Moreover, the petitioner concealed his criminal past, probably with a view to get a favourable order. 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. Given this, 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.

8. 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

May 05, 2022
Sonia arora

Whether speaking/reasoned: Yes
Whether reportable: No.