

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24640-2020
Reserved on:01.04.2022
Pronounced on: April 06, 2022

Vinod Kumar ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Chaudhary, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana

Mr.Vishwajeet Singh, Advocate for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
121	12.06.2020	Hassanpur, District Palwal	148, 149, 323, 341, 506 IPC, 1860 (Sections 325 and 307 IPC, 1860 added later on)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 11 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner drew attention of this court to paragraph 1 and submits that the present case is a counter blast to the FIR registered against Jasvir under POCSO Act. Ld. counsel further argues that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. Ld. counsel appearing for the State opposes the bail. The contention of behalf of the complainant is that the petitioner has been named in FIR and medical record establishes the injuries on skull. Ld. counsel further contends that only an idiot or an insane person would self-inflict such serious injuries on his skull, which is certainly not the case.

REASONING:

5. The petitioner along with his accomplices took law in their own hands and

allegedly gave severe beatings to Jasvir, who at that time had been named as a rapist by a minor girl, closely related to the petitioner. Later on, vide judgment dated 15-02-2022, Jasvir was held guilty by the trial court and sentenced to imprisonment for seven years in the terms of the verdict. The motive is writ large and the petitioner was explicitly named in the FIR.

6. Ld. Counsel for the complainant contends that the petitioner had to undergo treatment for six months out of which for maximum period, he was in hospital, and he is still dependent for his day-to-day affairs. Ld. Counsel drew attention of this court to medical record to corroborate his submissions. There were depressed bone fragments on temporal region. Neither the State nor the petitioner could refute this contention. The allegations are serious and offence heinous. The evidence collected so far points out that the petitioner brutally and mercilessly assaulted the victim. Given the nature of injuries and preparations made for such assault, it does not entitle the petitioner to bail at this stage.

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

8. 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 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.

9. 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.

10. Without commenting on the case's merits, 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.

11. 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 interim orders granting bail stand vacated.

All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

April 06, 2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.