

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27915-2022
Reserved on: 04.08.2022
Date of Pronouncement: 21.09.2022

Kushal Sharma @ Kushal
...Petitioner (s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Navkiran Singh, Advocate
for the petitioner(s).

Mr. H.S. Sitta, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
228	13.11.2021	Civil Lines Batala, Police District Batala, District Gurdaspur	307, 506, 120-B (Sections 411, 473, 201 IPC added later on) and 25, 27 Arms Act

1. The petitioner, incarcerated 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 on merits and in the alternative on medical grounds of infection in the intestine.
2. In paragraph 11 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	58	5.5.2022	341, 323, 379, 427, 506, 148, 149 IPC	Sadar Batala

3. The prosecution's case is that the petitioner and three gang members waylaid the complainant. After that, accused Malkeet Singh alias Nawab and Avtar Singh alias Hari fired at him from their pistols and proclaimed that he did not pay extortion money to Harry Chatha and, as such, they had to be killed.

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. The allegations against the petitioner are intimidation of death on non-payment of ransom to the gang.

7. In Abhay v. State of Haryana, CRM-M-32910-2022, decided on 19.09.2022, while rejecting bail of a gangster, this court observed,

[6]. The petitioner has huge criminal antecedents. While considering bail petition of any violator of the penal law, who has a criminal history, it is an onerous responsibility of such court to act judiciously, keeping in mind the ground realities and also to decide the bail application with reasonableness because arbitrariness is the antithesis of law. To bring back the people with a sick mentality to the society's fold, a criminal is not to be despised; but still, a balance has to be struck, and for a recidivist, the contours of a playing field are marshy and graver the criminal history, slushier the puddles. 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, he shall not indulge in criminal behavior. Apart from this, the allegations are grave, and the parameters for granting bail to first-time offenders and ordinary people stand on a much lower pedestal than that of gangsters and contract killers. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail on merits.

[7]. Regarding bail on medical grounds, the jail authorities are obliged to give appropriate medical care to all prisoners. The gangsters are no exception to such a

mandate flowing from Article 21 of the Constitution of India.

8. Given above, the petitioner is not entitled to bail except on the grounds of prolonged pre-trial incarceration. The petitioner’s custody is of just four months, which cannot be considered as prolonged given the sentence prescribed under the offences.
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. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

September 21, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.