

CRM-M-29945-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29945-2022
Reserved on: 28.07.2022
Pronounced on: 26.08.2022

Sandeep ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Paramjeet Singh Sullar, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
159	05.07.2021	Julana, Distt. Jind	307, 34, 120-B, 201 IPC and 25/54/59 of Arms Act

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 paragraph 11 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	136	26.07.2010	354, 506 IPC	Lakhan Majra, Rohtak
2	93	27.07.2011	307, 311 IPC	Lakhan Majra, Rohtak
3	43	13.03.2014	148, 149, 307, 365, 323 IPC	Lakhan Majra, Rohtak
4	113	14.06.2015	25/54/59 of Arms Act	Lakhan Majra, Rohtak
5	174	14.07.2017	148, 149, 325, 341, 506 IPC	Lakhan Majra, Rohtak
6	262	12.08.2017	148, 149, 325, 341, 506 IPC	Lakhan Majra, Rohtak
7	82	19.04.2018	148, 365, 342, 392, 506 IPC	Lakhan Majra, Rohtak
8	127	07.05.2018	25/54/59 of Arms Act	PGIMS Rohtak, Rohtak
9	194	16.08.2018	323, 341, 452, 406, 341 IPC	Lakhan Majra, Rohtak
10	275	15.11.2018	173 IPC	Lakhan Majra, Rohtak
11	191	14.07.2020	307, 506, 34 IPC	Lakhan Majra, Rohtak
12	300	07.11.2020	379-B, 397, 395, 427 IPC	Lakhan Majra, Rohtak

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13	220	28.08.2018	307, 341 IPC	Naroda(Sonepat)
14	75	18.04.2019	506 IPC	Naroda (Sonepat)
15	37	23.02.2021	148, 149, 323, 341, 506 IPC	Lakhan Majra, Rohtak
16	39	24.02.2021	294, 506 IPC	Lakhan Majra, Rohtak
17	88	16.04.2021	148, 149, 307, 120-B, 506 IPC	Lakhan Majra, Rohtak

3. In the FIR, the complainant made the following statement:

12. Brief facts of the case like this:

To the SHO P.S. Julana Distt. Jind.

Sub: Sir, For taking action for firing at the house of witness family in a murder case (1) Rohit @ Manish Kumar s/o Satyawar and 2 others. I, Satish s/o Ram Chander am permanent resident of village Polly Tehsil Julana Distt. That about one and half years ago my elder son Mohit has been shot dead. Out of those 7 persons are still lodged in Distt. Jail Jind. Some of miscreants were let of by the investigation agency. Now the evidence is going on that murder case. Yesterday on 4.7.2021 at night I alongwith 3/4 persons sitting out my house. At night about 10.30 PM, 3 persons with muffled faces who were on motorcycle passed through the street while staring at my house. Thereafter at about 12.45 PM a shot was fired at me but the bullet hit on the wall of roof of my house. Rohit s/o Satyawar confessed before the police of P.S. Bahu Akbar that he had to kill the witnesses of Mohit murder case, because his brother is lodged in a jail in Mohit murder case and some miscreants are wandering freely. On 25.06.2021 my brother's son Ashish has been given threat by Trun s/o Rajesh that earlier we have got murdered your brother now they collected money to get murder another member of your family and your witness will be murdered very soon. Few months prior to the present incident, in front of office of Sh. Sadhu Ram DSP, Jind Ram Raj Ji and Hari Om sons of Tara Chand and Jai Parkash s/o Prem Chand had questioned me as to why their names had been dragged in Mohit murder case and in future if any serious incident would occur then you also would be named us. Sir, that 7 accused involved in murder of his son are lodged in jail and at their instance shot has been fired and the miscreants who are wandering freely were also involved in firing. It is requested that these accused be arrested and me and my family's life and liberty be protected."

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

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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. 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. The allegations point out towards a failed attempt to kill a witness. Given the previous criminal history and the allegations in the present FIR, there would be a possibility of the petitioner striking again. This court would not put the life of a witness at any risk or threat. Apart from this, the allegations are severe and heinous. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail.

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

26.08.2022
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Whether speaking/reasoned: Yes
Whether reportable: No.