

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34325-2021
Reserved on: 21.3.2022
Pronounced on: April 22, 2022

Rajender ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Surender Saini, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
493	28.10.2020	Gohana City, District Sonapat	302, 201, 34 IPC, 1860 and Section 25 of the Arms Act, 1959

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 16 of the petition, it is declared that the accused has no criminal history.
3. Learned counsel for the petitioner argues that the allegations were based on the last seen evidence. He further submits that disclosure statements of Kamal and Vishal were recorded and annexed as Annexures P7 and P-8 and they have disclosed to police that the injuries were inflicted by them and subsequently the deadbody was taken in the auto of petitioner-Rajender with intention to dispose bodies and thereafter the dead bodies were thrown in drain. He further contends that the prosecution witnesses did not state anything which would connect the petitioner with the offence and further pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The contention on behalf of the State is that it is a case of double murder and recording of evidence is at a crucial stage, and the accused are dangerous persons.

REASONING:

5. After brutally killing both persons, the accused dumped the dead bodies in the drain. The role of petitioner can only be ascertained after all the witnesses are examined and not before that. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

6. 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 GudikantiNarasimhulu 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.

7. 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.

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.

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

April 22, 2022
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Whether speaking/reasoned: Yes
Whether reportable: No.