

CRM-M-32440-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32440-2022
Reserved on: 01.08.2022
Pronounced on: 01.09.2022

Shiv Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Inder Pal Goyal, Advocate for the petitioner.
Mr. Rajat Gautam, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
129	12.04.2022	Sadar Narwana, Distt. Jind	148, 323, 325, 427, 459, 120-B, 506 & 149 IPC and Section 25 of 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.

2. As per the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	159	14.06.2014	323 & 341 IPC	City Narwana (Acquitted)
2	202	19.12.2011	420, 467, 468, 471, 120-B, 435 & 379 IPC	Sadar Narwana (acquitted)
3	336	14.12.2012	302, 148, 149, 452 IPC and Section 3 of SCST Act	City Narwana
4	64	12.04.2014	452, 307, 34 IPC and 25/54/59 of Arms Act	Uklana (acquitted)
5	124	13.04.2022	148, 149, 323, 325, 427, 459 120-B & 506 IPC	City Narwana

3. The allegations are of causing grievous and simple injuries, mischief by damaging property, house-tress pass and causing grievous injuries while doing so.

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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 Maulana Mohd Amir Rashadi v. State of U.P., (2012) 3 SCC 382, Hon'ble Supreme Court holds,

[10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

7. 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. There is a specific allegation that the petitioner brandished pistol at the complainant and the injuries as per MLR are grievous. 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.

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. However, it shall be open for the petitioners to file new bail application(s) on the grounds of prolonged custody. The dismissal of this petition shall not come in the way while considering the fresh petition(s).

9. Any observation made hereinabove is neither an expression of opinion on the

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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

01.09.2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.