

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39667-2021
Reserved on: 30.03.2022
Pronounced on: May 05, 2022

Sunil Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kuldeep Singh Siwach, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
539	29.10.2019	City Fatehabad, District Fatehabad	148, 149, 307, 323, 324, 341, 506 IPC, 1860 and Section 302 IPC added later on

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. In paragraph 14 of the bail application, the accused declares that no FIR is registered against him; however as per the status report, the petitioner has following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	15	11.02.2012	160 IPC	City Fatehabad

3. On October 26, 2019, petitioner Sunil along with Sumit alias Katwa, Vasu, and Deepak alias Kaddu etc. assaulted Virender Kumar, who succumbed to the injuries on Nov 1, 2019. In the FIR itself, the injuries attributed to the petitioner are hitting the backside of the head of Virender Kumar with stone for three-four times.

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 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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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, then he shall not indulge in criminal behavior. Apart from this, as per the earlier version, the fatal blows are also attributed to the petitioner, and in FIR, it was alleged that Sunil Kumar had hit the backside of the head of the deceased with a stone after picking up the same from the spot. Although the petitioner was not previously armed with a stone, he repeatedly gave stone blows on the backside of the head, which is one of the most vital parts of the human body. Thus, whether the case falls under any of the exceptions of S. 300 IPC or not is a matter of trial and not of bail in the given facts.

8. Ld. counsel further argued that the deceased was a habitual offender. It appears that Ld. counsel wants to place his case as one by acting in the right of private defence. In the present facts, it is a matter of trial and not for consideration during bail hearing.

9. 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) in changed circumstances or after recording the statements of witnesses other than official and formal witnesses, whichever is earlier. If the statements mentioned above are not recorded within six months, the petitioner may file a fresh bail petition on the grounds of prolonged custody. The dismissal of this petition shall not come in the way while considering the fresh petition(s).

10. 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

May 05, 2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.