

CRM-M-40345-2020 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40345-2020 (O&M)
Reserved on: 08.02.2022
Pronounced on: 22.02.2022

Parwinder Singh @ Vicky ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Karnail Singh Ahhi, Advocate for the petitioner.
Mr. H.S. Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0245	01.10.2019	Jandiala, Amritsar Rural	302, 332, 333, 353, 186, 379-B(2), 120B, 148 & 149 IPC and Section 25/27 of Arms Act and Sections 21/29/61/85 of NDPS Act

1. The petitioner, incarcerated upon his arrest has come up before this Court seeking bail under Section 439 CrPC, for violating provisions of IPC and NDPS Act.
2. In paragraph 20 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The contention on behalf of the State is that offence is very grave, allegations are serious, and there is ample evidence connecting the petitioner with the crime. Furthermore, the petitioner has criminal antecedents, and bail encourages habitual offenders. While opposing the bail, another contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. 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

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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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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.

6. 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.

7. The quantity of contraband allegedly recovered from the petitioner as per State's contention, falls in the category of commercial quantity. The burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

8. The stand that the accused is in custody for sufficient time is also not a legal ground to overcome the rigours of S. 37 of the NDPS Act at this stage.

9. The grounds taken in the bail petition do not shift the burden placed by the legislature on the accused under S. 37 of the NDPS Act. The petitioner has not stated anything to discharge the burden put by the rigours of S. 37 of the NDPS Act. Thus, the petitioner has failed to make out a case for bail at this stage.

10. Regarding the offence under Section 302 IPC, in the incident, a police official received a bullet injury in his neck due to which he succumbed. Looking at the gravity of allegations, the accused are not entitled to bail during the trial. Given this, the petitioner also fails to make out a case for bail.

11. 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

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