

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44266-2022 (O&M)
Reserved on: 11.11.2022
Date of Pronouncement: 15.11.2022

Sandeep @ Billa
...Petitioner (s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Harsh Raheja, Advocate
for the petitioner.

Mr. Virat Rana, AAG, Punjab.

Mr. Pardeep Kumar Kapila, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
139	6.7.2019	Sadar Ferozepur, District Ferozepur	307, 323, 148, 149 IPC and 25/27 Arms Act and later on added Section 325 IPC

1. The petitioner incarcerated in the FIR captioned above, on the allegations of causing bullet injury, has come up before this Court under Section 439 CrPC seeking bail.
2. In paragraph 23 of the bail application, the accused declares the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offences	Police Station
1.	187	23.10.2020	365/367/323/341/34 IPC	Mamdot, District Ferozepur

3. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. While opposing the bail, the contentions on behalf of the State are that given the criminal past, the accused is likely to indulge in crime once released on bail.

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 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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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. The petitioner has criminal history of heinous and grave crimes. As per paragraph 15 of the bail petition, the petitioner is in custody since 02-05-2022. 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 petitioner is not entitled for bail for prolonged incarceration, because his custody is hardly of six months. Regarding the argument that the petitioner is entitled to bail on parity with co-accused namely Gobinda and Vicky, it is clarified that as per the FIR, Gobinda was armed with *Sota* whereas Vicky was armed with *Dang*. On the contrary, it has been specifically mentioned in the FIR that the petitioner – Sandeep @ Billa fired from his pistol on Saalu and the bullet hit on the right side above knee of the right leg of the injured. The petitioner used deadly weapon and it was the good luck of the victim that the fire did not hit the vitals. It is not the case of the petitioner he acted in right to private defence and for that reason, he had hit the injured on the limbs to immobilize him. Given

this, case of the petitioner is not covered on the ground of parity with other co-accused. Furthermore, considering the nature of allegations and use of firearm by the petitioner, he is not entitled for bail.

8. A perusal of the bail petition and the documents attached, *prima facie* points towards the petitioner’s involvement and does not make out a case for bail and he is neither entitled to bail on merits nor on the grounds of prolonged pre-trial incarceration. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

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. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

November 15, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.