

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8672-2023 (O&M)

Reserved on: 23.02.2023
Pronounced on: 11.04.2023

Amandeep Singh @ Aman
... Petitioner(s)

Versus

State of Punjab
...Respondent (s)

CRM-M-8325-2023 (O&M)

Kundan Singh @ Kunda
... Petitioner(s)

Versus

State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Ms. Angel Walia, Advocate
for the petitioner(s).

Mr. IPS Sabharwal, D.A.G., Punjab.

Mr. Karnail Singh Ahhi, Advocate
for the complainant.

ANOOP CHITKARA, J.

GDR No.	Dated	Police Station	Sections
54	25.4.2022	Kamboj, Amritsar Rural, District Amritsar	336/325/323/452/427/148/149 IPC & 25/27 Arms Act (Section 201, 459 IPC added later on)

IN

FIR No.	Date	Police Station	Offences
46	25.4.2022	Kamboj, Amritsar Rural, District Amritsar	302/307/326/323/148/149 IPC & 25/27 Arms Act

1. This order shall dispose of two petitions i.e. CRM-M-8325 & 8672-2023, as the same arise out of common GDR/FIR with same offences, both having been filed by the same petitioner. However, for brevity, facts are being noticed from CRM-M-8672-2023.

2. The petitioner incarcerated in the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail.

3. In paragraph 20 of the bail petition i.e. CRM-M-8672-2023, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	138	2002	307 IPC (Convicted u/s 326 IPC)	Sadar

In paragraph 20 of bail petition i.e. CRM-M-8325-2023, the petitioner has declared the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	138	2002	307 IPC (Convicted u/s 326 IPC)	Sadar
2.	68	2013	379/34 IPC	Kambo
3.	336	2015	135 Electricity Act	Anti Power Theft, Amrtisar

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

5. While opposing the bail, the contentions on behalf of the State as well as counsel for the complainant are 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. The petitioner has criminal history of heinous and grave crimes. 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. The petitioner has been named by the complainant and weapon has been specifically attributed to him. The petitioner seeks bail on the grounds of acting in the right of private defence; however, he did not refer to any such document except the cross FIR, which in the given facts is not sufficient. Consequently, the petitioner fails to make out a special case for bail. The allegations in the case are serious and the offence heinous. To decide the bail petition on merits would require this Court to peruse the evidence collected by the prosecution. The petitioner has neither annexed the copy of the police report filed under Section 173(2) CrPC, nor does he say that the Trial Court did not supply the same to him under S. 207 CrPC. There is no ground pleaded or explanation offered regarding reasons that constrained the petitioner from annexing those while filing the petition. Thus, the Court cannot decide the bail petition.

9. 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.

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.

Petitions are dismissed in terms mentioned above. However, considering the petitioner's custody, the ends of justice will meet by expediting the trial. This court requests the concerned trial court to take up this trial on priority and endeavor to conclude it by Sep 30, 2023. The expediting of the trial is subject to the condition that the petitioner shall not seek any adjournment, and if he does so, this order expediting the trial shall stand recalled automatically under section 362, read with 482 CrPC, without any further reference to this court. All pending applications, if any, stand disposed of.

A photocopy of this order be placed on the file of other connected case.

(ANOOP CHITKARA)
JUDGE

April 11, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No