

CRM-M-9579-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9579-2021
Reserved on: 28.08.2023
Pronounced on: 01.09.2023

Lellu Giri @ Dellu @ Nepali ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Chetan Kapoor, Advocate
for the petitioner(s).

Mr. Shiva Khurmi, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
131	06.06.2020	City Rajpura, Patiala (Bearing SC Case No.237/2020, Filing No.5409/2020 and CNR No.pbpt010097702020)	302, 201, 120-B IPC

1. The petitioner incarcerated in the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail.
2. As per the custody certificate dated 27.08.2023, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	184	10.06.2021	52-A of Prisons Act	Tripuri

3. The petitioner’s counsel submits that the petitioner has been falsely implicated in the present case based only on the challan/final report which was prepared on 03.09.2020 by the investigating agency and presented against the present petitioner. He further contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. While opposing 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.

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REASONING:

5. In Paramjeet Singh v. State of Punjab, **2022:PHHC:003983 [Para 8]**, 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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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. On 04.06.2020, Kanta disclosed her husband-Ranjit about non-returning of their son Lalit who had been called by Bittu, Sunny and Darshan Kumar, whereas at that time Suraj, Arjan and Aman were standing in the street. On this, complainant informed the police and during investigation, the police came to know that the accused after murdering their son, tried to destroy his dead body. Later on dead body was recovered from a canal at Village Kalara near Jansui Head (Haryana). At the time when dead body was recovered drowning in the canal, it was tied with a rope.

7. The petitioner has criminal history. 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 evidence is of last seen by the deceased's mother. 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.

The petition is dismissed. All pending applications, if any, stand closed. However, considering the petitioner's right to speedy trial coupled with the pre-trial incarceration, this court requests the concerned trial court to make all endeavours to conclude the trial

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by Dec 31, 2023, of which the prosecution evidence be completed by Oct 31, 2023, and latest by Nov 30, 2023, and the remaining time to provide an opportunity to the accused to lead defence evidence, if so desired, and to conclude its hearing. To meet the deadline, an endeavour be made to speed up the process for service and to pass the necessary directions in this regard. It is clarified that if expediting this trial disturbs the docket of the concerned court, then a balance be struck, and if, on this account, any delay happens, then an extension can be sought by mentioning such reasons. It is clarified that this order speeding up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If they do so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. If any of the accused is on bail and fail(s) to attend the trial without any sufficient cause, then they be dealt with strictly but in accordance with law. It is clarified that if the trial is not concluded by the date mentioned above, and if the delay is not attributable to the petitioner, then the petitioner may file an application for bail before the trial court, which shall decide it expeditiously and consider the bail on the grounds of pre-trial custody, and all the previous orders of dismissal passed by the trial court or High Court shall not come in the way.

(ANOOP CHITKARA)
JUDGE

01.09.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.