

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18763-2023
Reserved on: 05.09.2023
Pronounced on: 12.09.2023

Manik Babbar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.S. Thakur, Advocate for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
21	06.02.2019	Navi Baradari, District Jalandhar Commissionerate,	302, 307, 324, 148, 149, 109, 120-B IPC and 25, 27 of Arms Act (326, 201 IPC added later on)

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

2. In paragraph 14 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offences	Police Station
1.	99	10.08.2021	307, 34 and 25,27,54, 59 of Arms Act	Bhargo Camp, Jalandhar
2.	176	01.07.2022	20, 61, 85 of NDPS Act	Kowali, Kapurthala
3.	119	30.06.2017	21, 29, 61 of NDPS Act	Kartarpur, Jalandhar

3. The petitioner 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 and trial is at advance stage.

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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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

7. The allegations against the petitioner are that he along with his associate attacked the complainant party on 06.02.2019 and fired gun shots on the complainant's brother, namely, Davinder Singh, also gave dater blow on his head, due to which he expired. When the complainant rushed to save his brother even he was fired upon. In between some of the co-accused also inflicted datar blows on the complainant. Although, initially the petitioner's name was not mentioned, however, after a gap of just two days, the complainant named him as Manak Sharma, which is further clarified that he did not know the surname correctly and it was the petitioner Manik Babbar, who was Manak Sharma and even datar was attributed to him. Although, six persons who were initially nominated as an accused were found innocent in the investigation and were absolved but the investigator found evidence against the petitioner with a specific role that he had inflicted a datar blow on the head of the complainant with the intention to kill and to save himself, the complainant has raised his left hand and as such the dater hit in the left thumb. The petitioner says that the fatal blow was not inflicted by him is inconsequential because the FIR mentions section 149 of IPC i.e. common object of all the accused was to cause death. Counsel for the petitioner further submits that the witnesses, who have been examined, did not support the prosecution and as such, the petitioner is likely to be acquitted. This Court cannot comment on this because if the bail is granted by observing that the evidence is insufficient for conviction then it would certainly prejudice the prosecutions' case. Needless to say, it is for the trial Court to appreciate the evidence of witnesses. In addition to this, the petitioner has a massive

criminal history including two cases under the NDPS Act and one under attempt to murder. The trial is at advance stage and in the entirety of facts and circumstances, the petitioner fails to make out a case 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.

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 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

12.09.2023
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.