

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29463-2022
Reserved on: 31.07.2023
Pronounced on: 16.08.2023

Rupender alias Nanha ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Manish Bansal, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
265	23.06.2020	Kharkhoda, District Sonipat	302 IPC, Sections 25, 54, 59 of Arms Act (Section 34 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 7 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	104	11.03.2016	302 IPC	Ganaur, Sonapat
2	286	2020	307 IPC	Special Cell, Delhi
3	400	2020	307 IPC	Palam Vihar, Gurugram
4	516	12.12.2017	302 IPC	Urban Estate, Rohtak

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.

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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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. Para 10 of the reply of the State is relevant which reads as under:-

“That there are direct and specific allegations and sufficient evidence against the petitioner to connect him with the commission of above mentioned offence. He is specifically named in the statement of father of the deceased, wherein father of deceased has specifically stated that his son namely Sushil @ Shila was murdered on 22.06.2020 by firing gunshots 2/3 months prior to his murder, his son used to stay with his friend Rupender @ Nanha (petitioner) and that his son Sushil @ Shila has been got murdered by Nanha @ Rupender son of Krishan, resident of village Barona, Sonipat from his companions namely Sombir Chand son of Satish, resident of village Kumach Khera, District Jind. Dinesh Sonu son of Krishan. resident of village Barona, Sonipat and Amit son of Mukesh, resident of village Panchi Jatan, Sonipat by supplying weapons to them. Petitioner had the the motive for the murder of deceased Sushil @ Shila, as petitioner and co-accused Dinesh @ Sonu were suspecting that deceased was having illicit relations with wife of co-accused Dinesh @ Sonu and petitioner was also nursing grudge against deceased, as he did not remain vigilant for committing the murder of Inspector Sonu, due to which they could not succeed in their motive and thereafter. petitioner/accused Rupender alongwith co-accused hatched the conspiracy for committing the murder of Sushil @ Shila, for which petitioner/accused Rupender @ Nanha had handed over the weapon of offence to co-accused Sombir @ Chand and thereafter, deceased Sushil @ Shila was murdered and after the occurrence, the weapon of offence was again handed over to petitioner/accused by co-accused and petitioner again handed over the said weapon to co-accused Naveen @ Chota, from whom petitioner had procured the same. Petitioner had actively participated in hatching conspiracy to commit the murder of deceased, which has also been admitted by him in his disclosure statement and this fact has also been disclosed by co-accused in their respective disclosure statements. The trial in the present case is yet to commence and all the prosecution witnesses are yet to be examined and If enlarged on bail. petitioner can tamper the prosecution evidence by influencing witnesses, who are yet to be examined and he can also hamper the trial by absconding from the process of law. Merely on the basis of longevity of incarceration, petitioner cannot seek the concession of bail as a matter of right. Thus, keeping in view the seriousness of offence and facts and circumstances of the case, he is not entitled to the relief of bail as claimed for.”

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. 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

16.08.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.