

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38974-2023
Reserved on: 16.08.2023
Pronounced on: 22.08.2023

Naresh Saroha @ Nesha ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. Abhimanyu Singh, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
257	18.03.2021	Kharkhoda, District Sonipat	148, 302, 452, 149 & 120-B IPC and Sections 25/27 of Arms Act

1. The petitioner incarcerated in the FIR captioned above, for being part of the criminal conspiracy, the furtherance of which one person was shot dead, and another fired up at the same time, in a court complex, has come up before this Court under Section 439 CrPC seeking bail.

2. In paragraph 34 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1	191	18.03.2021	307, 120-B & 34 IPC	City District Sonipat

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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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. On 18.03.2021, Anita-wife of the deceased-Krishna made a statement to the SHO, Police Station Kharkhoda in the following terms:-

“ She stated that 8-10 people came outside their house at around 1:00 p.m. At that time her husband Sh. Krishna was present at home. Those people asked him by calling him ‘ *Tau*’ and on this her husband opened the gate. Subsequently, those people came inside and shot at her husband. When her husband went inside the house then they again continued to fire bullets hit various parts of his body. Resultantly, he died. The complainant-Anita suspected that out of the old enmity with Muniya, he alongwith his friends and brother Barjesh alongwith his co-accomplices Ramkaran, Naresh, Jasbir, Ramesh Pahalwan, Rajesh Sarkari, Neetu Thanda, Pauna, Aashish, Vikky, Parvinder Kaur wife of Satyawan, Sonu Malik, Advocate Shashi Parkash, Bhart wife of Sonu Malik, mother of Muniya and Aanand murdered her husband in conspiracy. The complainant-Anita while narrating the incident in FIR did not mention that out of those 8-10 persons a woman was also among them. The case of the prosecution is that the petitioner who is wife of Satyawan is also the conspirator and the murder was committed as a part of larger conspiracy.

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

22.08.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.