

CRM-M-41759-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41759-2023
Reserved on: 05.09.2023
Pronounced on: 12.09.2023

Sukhdev Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.P.S. Khadial, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
79	13.08.2020	Jaurkian, District Mansa	302, 341, 323, 324, 34 IPC

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, has come up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 13 of the bail petition and also as per the custody certificate, the accused has the following criminal history

Sr. No.	FIR No.	Date	Offences	Police Station
1	220	20.07.1978	302/34 IPC	City 1 Mansa

3. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. While opposing bail, the State contends 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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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. Earlier on two occasions, the petitioner had come up before this Court seeking regular bail and on both times, the petition was dismissed. Now the petitioner has again come up before this Court third time on the grounds that PW1 Baljinder Singh did not support the prosecution case in his statements recorded on 21.07.2023. Baljinder Singh was sole witness and since he did not support the case, as such the petitioner is entitled to bail. He further submits that vital blow was attributed to Jagseer Singh and only one simple injury was attributed to petitioner which inflicted on the person of complainant. Petitioner further submits that during the investigation out of 5 accused, 3 were found innocent and as such the petition should have been allowed because the petitioner was not present at the spot.

7. Perusal of the reply dated 04.09.2023, reveals that both, petitioner and his son, with common intention attacked the deceased and Jagseer Singh had given one blow of Kirch (small sword) in the neck of Manpreet Singh@ Bablu and it passes through the neck. When Baljinder Singh tried to intervene to save Manpreet Singh, accused Jagseer Singh inflicted another blow on Baljinder Singh which hit on his left flank region and left arm. After that Sukhdev Singh (present petitioner) also inflicted a blow of the hand pump iron rod on forehead of Baljinder Singh. Police had recovered handles of hand pump from the petitioner-Sukhdev Singh. As a result of the injuries inflicted in the occurrence, Manpreet Singh had expired. The petitioner's stand that he did not attribute the vital injury on Manpreet Singh, is no ground to grant him bail because of the enactment of Section 34 in Indian Penal Code which is about common intention. Both, father and son, gave beatings with common intention to cause injuries and dangerous weapons were used. Regarding non-supporting of the case by eye-witness it is for the trial Court to consider its impact at the time of final judgment and it will be highly improbable for this Court to give its opinion which might cause serious prejudice to the prosecution.

CRM-M-41759-2023

8. 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.

9. In the facts and circumstances peculiar to this case and for the reasons mentioned above, petitioner fails to make out a case for bail. Consequently, 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
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Whether speaking/reasoned: Yes
Whether reportable: No.