

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54210-2022
Reserved on: 28.08.2023
Pronounced on: 31.08.2023

Malkeet Singh @ Nawab ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Shiva Khurmi, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
228	13.11.2021	Civil Lines, Batala, District Batala	307, 506, 120-B IPC and 25, 27 of Arms Act

1. The petitioner incarcerated in the FIR captioned above, has come up before this Court under Section 439 CrPC seeking bail.
2. In note 3 of the bail petition, the accused declares that he has following criminal antecedents.

Sr. No.	FIR	Year/Dated	Sections	Police Station
1.	47	2015	25 of Arms Act	GRP District Amritsar
2.	11	2016	307 IPC and 25/54/59 of Arms Act	SSOC District Amritsar
3.	80	2014	25/54/59 of Arms Act	Bhogpur
4.	106	2016	392 IPC	Kartarpur, District Jalandhar
5.	81	2016	307, 34 IPC and 25/54/59 of Arms Act	Mehta, District Amritsar
6.	52	2013	394 IPC and 25/54/59 of Arms Act	Ranggarh Nangal Police District Batala
7.	134	2015	25, 25(1-A) Arms Act and 21, 22 of NDPS Act	Beas, District Amritsar
8.	18	01.04.2022	307, 353, 186, 506 IPC and 25/54/59 of Arms Act	Mehta, District Amritsar Rural

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3. Counsel for the petitioner submits that the petitioner seeks bail on the grounds of parity with co-accused Kushal Sharma @ Kushal, who was granted bail by this Court vide order dated 20.10.2022 passed in CRM-M-46812-2022. 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. 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. As per prosecution story the FIR was got registered by complainant Gurpreet Singh @ Gopi that he along with Dikshit Kumar had gone to Mohalla Gobind Nagar, Kahnuwan Road, Batala in a Scorpio bearing registration No. PB-18-V-7000 for attending a function. After the function, at about 10.30 PM 4 persons came on 2 motorcycles. Out of the 4 persons petitioner and one Avtar Singh were named by the complainant by stating, he was known to them. Petitioner had raised lalkara by instigating co-accused to teach a lesson for not giving extortion money in the name of Harry Chatha. Thereafter, petitioner as well as his co-accused Avtar Singh fired upon the complainant and Dikshit Kumar which hit the Scorpio vehicle of the complainant, however, no injury was suffered by complainant or his accomplice in the present case

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 or on parity because Kushal Sharma is not named in FIR. 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

31.08.2023
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.