

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31000-2024
Reserved on: 07.08.2024
Pronounced on: 30.08.2024

Ankit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vibhor Bansal, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
560	28.05.2019	Karnal Sadar, District Karnal, Haryana	307, 34, 225, 224 IPC & 25 of Arms Act (Sections 216, 120-B IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. In paragraph 17 of the bail petition, the accused declares that he has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	147	27.02.2019	307, 120-B, 34 IPC and 25 of Arms Act	Camp Palwal
2.	286	28.07.2019	302, 34, 452 IPC and 25/54/59 of Arms Act	Hathin
3.	177	12.03.2019	302, 34 IPC and 25/54/59 of Arms Act	Camp Palwal

3. The facts and allegations are being taken from the status report dated 23.07.2024 filed by concerned DySP, which reads as follows:-

“1. That I have scrutinized the case file and other relevant record pertaining to this case and found that on 28.05.2019, information was received from Control Room, Karnal that near New Bus Stand, Baldi three persons had fired gun shot at police officials and managed to free an undertrial from police custody. Upon this information, ASI Sultan alongwith other police officials reached New Bus Stand where it was found that the injured police officials had been taken to

Kalpana Chawla Medical College, Karnal for treatment. Thereafter, ASI Sultan alongwith other police officials reached Kalpana Chawla Medical College, Karnal and after obtaining the opinion of doctor recorded the statement of injured police official SI Suresh Pal to the effect that on 28.05.2019 an under trial lodged in Jagadhri Jail namely Sunil @ Monu @ Khira was to be produced in the Court of Shri Rajender Singh Dhanda, learned Additional Sessions Judge, Karnal in case FIR No.475/16 under Section 302, 34 IPC and 25- 54-59 Arms Act, P.S. Sadar, Karnal. He alongwith HC Vinod Kumar and Constable Sandeep Kumar were deputed to produce the undertrial in Court. After production of the undertrial in Court, they set out on return journey to Jagadhri Jail. At about 12:15 pm when they were standing at New Bus Stand near counter no.2, then all of a sudden three young persons aged about 25-26 years came and one of them put spray into the eyes of police officials and another person who was armed with a country made pistol fired at HC Vinod Kumar, however, the bullet missed him. He took the carbine of HC Vinod Kumar and just as he was positioning himself in order to fire the weapon, the said person gave a fire shot on his left leg. The said person again fired at him however, he moved towards the side of the bus and the bullet missed him. One another person fired two shots at Constable Sandeep which hit him on his legs and he fell down. Thereafter, the assailants managed to free the under trial and in the scuffle that ensued, the country made pistol was snatched by HC Vinod Kumar from them. The under trial Sunil @ Monu @ Khira alongwith his three companions had attacked the police party with the intent to kill them and the said persons managed to free the under trial from lawful custody and necessary action be taken against them. On the basis of the said statement, the present FIR No.560 dated 28.05.2019 was got registered under Section 224, 225, 307, 34 IPC and Section 25-54-59 Arms Act.”

4. The petitioner's counsel argues that the petitioner has not been named in the FIR not the complainant and other eye witnesses have given their description i.e. height, colour, complexion and features of any accused including the petitioner. In the present case, no identification parade was conducted by the Police during investigation of the case in order to establish that they are the same persons who committed the offence. Counsel for the petitioner further argues that the case is pending trial since 2019 and there are as many as 23 witnesses as per the list of witnesses and till now only four witnesses have been examined. Petitioner was involved in the present case on baseless grounds by the police. The petitioner was arrested by the Police on 02.10.2019 alongwith co-accused Sunil alias Monu and Ankush after obtaining production warrants from the Court. During investigation of the case, the Police has recorded the alleged disclosure statement of the petitioner on 11.10.2019 in which the allegations against the petitioner are that at the time of occurrence he had only sprayed a liquid in the eyes of the complainant and constable Sandeep only. As per the disclosure statement dated 11.10.2019, the petitioner was not

carrying any fire arm, etc. The petitioner was arrested by the Police in this case on 02.10.2019 and a period of more than 4 years 9 months has already expired. Hence the trial of the case is likely to take long time and no useful purpose would be served by keeping the petitioner in custody during the entire trial of the case. In the present case, a false recovery of handcuff having been shown jointly by the petitioner, co-accused Sunil and Ankush which carries no value in the eyes of law as the same has been planted upon the petitioner in order to continue to create a false evidence against him, except this there is no other recovery effected from the petitioner in the case. Co-accused namely Manjeet @ Billa was granted regular bail by Hon'ble High Court vide CRM-M No 17232 of 2020 vide order dated 15.03.2021. Co-accused namely Abhishek @ Githa was granted regular bail by Hon'ble High Court vide CRM-M No. 20136 of 2021 vide order dated 26.05.2021. That the co accused namely Mukesh Kumar was granted regular bail by Hon'ble High Court vide CRM-M No. 50806 of 2021 vide order dated 10.02.2022.

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The State's counsel opposes bail and refers to the reply, and specifically para 4, which reads as follows:-

“4. That the present accused/petitioner namely Ankit was completely and wholly involved in commission of the offence of the present case as he was one of the person who was doing raki of police officials before committing the present offence and then sprayed chilly spray before firing bullets with his pistol upon the police officials for freeing the co-accused Sunil @ Monu @ Khira from the lawful custody. It is pertinent to mention here that the present accused/petitioner is involved in many criminal cases with similar offences which are very serious and heinous in nature, one of the co-accused namely Abhishek in the present case has already been declared a proclaimed person, who was granted bail, whose case was on same footings as of the petitioner. Moreover, there is sufficient prima facie evidence available on the case file against the present petitioner-accused. H.C Rajeev, Prosecution witness No.3 of the present FIR has been examined and who has clearly deposed about the involvement of present accused/petitioner in the present case and other cases. His evidence is exhibited as Annexure R-1 and evidence of Dharambir retired Assistant Director (Ballistic) is Annexed as Annexure R-2.”

7. It would be appropriate to refer to the following portions of the reply, which read as follows:-

“5. That there are several cases lodged against the present accused/petitioner which are of same nature, the details of 16

cases which the present accused/petitioner involved are mentioned below:-

- i. FIR No.157/2023 U/s 285, 506, 201, 34 IPC and 25, 54, 59 of Arms Act. P.S. Mundkati, Palwal, pending before JMIC, Hodal.*
- ii. FIR No.286/2019 U/s 302, 34, 452 of IPC 25, 54, 59 of Arms Act. P.S. Hathin, Palwal, pending before ADJ, Palwal.*
- iii). FIR No.487/2019 U/s 307, 34, 420, 467, 468, 471, 120-B, 216 IPC, 5/25 A. Act, 27 A. Act, P.S. Suratgarh, Ganganagar, pending before ACJM Suratgarh.*
- iv). FIR No.147/2019 U/s 120-B, 307, 34 IPC, and 25, 54, 59 Arms Act P.S Camp Palwal, Palwal, pending before ADJ Palwal.*
- v). FIR No.177/2019 U/s 302, 34, 120-B IPC and 25, 54, 59 Arms Act P.S Camp Palwal, Palwal, pending before ADJ Palwal.*
- vi). FIR No.318/2019 U/a 302, 120-B, 34 IPC P.S Camp Palwal, Palwal, ADJ Palwal. pending before ADJ, Palwal*
- vii). FIR No.118/2019 U/s 307, 332, 336, 34, 353, IPC and 3/25 of A. Act P.S. Mahajan, Bikaner, pending before ASJ Bikaner.*
- viii). FIR No.263/2019 U/s 34, 392, 397, 411 IPC and 25 of Arms Act. P.S. Kherki Daula, Gurugram, pending before ADJ, Gurgaon.*
- ix). FIR No.200/2016 U/s 302 IPC and 25, 54, 59 of Arms Act. P.S. Hathin, Palwal, pending before ADJ Palwal.*
- x). FIR No.399/2014 U/s 302, 34 IPC, Section 25, 54, 59 of Arms Act. P.S. Sadar Palwal, Palwal. pending before ADJ Palwal.*
- xi). FIR No.309/2015 U/s 302, 148, 149, 323, 506 IPC P.S. Chandhut, Palwal, Acquitted vide order dated 24.10.2017.*
- xii). FIR No.350/2016 U/s 379 IPC, P.S. City, Palwal, acquitted vide order dated 12.07.2018.*
- xiii). FIR No.687/2013 U/s 323, 324, 506 IPC P.S. Camp Palwal, Palwal, acquitted vide order dated 03.02.2016.*

6. That the accused/petitioner is a habitual offender and is a threat to general public if he is granted concession of bail as he is already involved in various serious and heinous offenses. Moreover, the allegations in the present case against the accused-petitioner are of utmost gravity and was involved in criminal conspiracy with other co-accused in order to secure the release of under trial Sunil @ Monu @ Khira from lawful custody and there are very high chances that the accused can abscond as one of the co-accused namely Abhishek who was granted bail has already absconded. It is pertinent to mention here that police officials S.I Suresh Pal and Ct. Sandeep Kumar received firearm injuries attributed by accused-petitioner and other co-accused.”

CRM-M-31000-2024

8. There is prima facie evidence indicating the petitioner's involvement in a dangerous crime. There is corroborative evidence supporting the allegations. Furthermore, the petitioner has a massive criminal history, which shows that whenever he got bail, he committed more crimes. The delay is not that much compared to the sentence prescribed by the statute for the commission of an offense punishable under S. 307 IPC.

9. 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 the prosecution filed a closure report, cannot be included. Although crime is to be despised and not the criminal, for a recidivist, the contours of a playing field are marshy, and the graver the criminal history, the slushier the puddles.

10. A perusal of the bail petition and the attached documents prima facie points towards the petitioner's involvement but does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

12. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.