

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.52372 of 2024
Reserved on: 08.11.2024
Pronounced on: 19.11.2024

Ajay Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohan Singh Rana, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
211	08.08.2023	Nissing, Karnal	379, 411, 474 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. Per paragraph 13 of the bail application and para 6 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	406	22.12.2023	Under sections 148, 149, 308, 323, 324, 379-B, 427, 452, 506 IPC	Nissing Karnal

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:
- "On 07.08.2023, he moved a complaint before police stating that he was working in Haryana Roadways and had parked his motorcycle bearing Regd. No. HR-08-M-1393 at Bus Stand, Nissing, Karnal at about 10:30 A.M. when he came back at around 8:00P.M., he found his motorcycle missing. "*
4. 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.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which reads as follows:

"4. That during the course of investigation the motorcycle bearing Regd. So-08-1383 of the complainant from the possession of the present petitioner who was using a fake registration No. 1928-2-7703 on the said motorcycle accordingly, section 474 of IPC was added in the present FIR."

7. 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. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

8. Another reason to deny bail is the likelihood of the petitioner repeating the crime. Considering the bail petition of an accused with a criminal history throws an onerous responsibility upon the courts to act judiciously and reasonably 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 prosecution 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 criminal, for a recidivist, the contours of a playing field are marshy, and the graver the criminal history, the slushier the puddles.

9. Given the minimum sentence prescribed for the offense, the petitioner's custody of around two and a half months cannot be termed prolonged.

10. Regarding the delay in the trial, if the trial does not conclude within six months of the petitioner's custody, and the delay is not attributable to the petitioner, the petitioner may apply for bail before the trial Court. The trial Court shall not be influenced by the dismissal of bail on merits or criminal history and shall decide it on changed circumstances and the prolonged trial.

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.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

19.11.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.