

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65395-2023
Decided on: 12.03.2024

Rajesh @ Raja ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ankur Malik, Advocate for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
36	22.02.2017	Alewa, Distt. Jind	307, 120-B, 34 & 201 IPC and section 25/54/59 of Arms Act

1. The petitioner, who is in custody for around more than 03 years & 11 months in the FIR captioned above, has come up before this Court under Section 439 CrPC seeking regular bail by filing the present 4th petition.
2. In paragraph 19 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Year/Date	Offences	Police Station
1	118	2001	379, 430 IPC	Sector 5 Gurugram
2	26	2008	420, 468, 471, 394 IPC	Raiwala Dheradun
3	29	12.03.2008	395, 412 IPC & 25 of Arms Act	Rajaund (Kaithal)
4	224	25.09.2008	382, 420, 467, 468, 467 IPC	Praw, Ambala
5	493	22.10.2008	323, 365, 392, 34 IPC	Kotwali Patiala
6	601	22.10.2008	392 IPC	City GGN
7	213	2011	395, 397 IPC	Sadar Hansi
8	695	2012	25 of Arms Act	City Jind
9	139	22.07.2016	25 of Arms Act	Alewa, Jind
10	81	01.06.2018	307, 120-B 34 IPC & 25 of Arms Act	Alewa, Jind
11	110	2019	25 of Arms Act	Sadar Jind
12	34	25.03.2020	302, 201, 404, 346, 34 IPC and 25 of Arms act	Alewa
13	38	05.04.2020	174-A IPC	Alewa

14	39	05.04.2020	174-A IPC	Alewa
15	40	05.04.2020	174-A IPC	Alewa
16	247	1997	Excise Act	Sadar Jind
17	238	1998	324 IPC	Alewa
18	97	2011	398/402 IPC	Uchana
19	171	2016	323, 341, 506 IPC and 25 of Arms Act	Alewa
20	133	2011	Arms Act	Sadar Jind

3. Vide order dated 10.01.2024, state was asked to file reply. Today counsel for the State opposes the bail and submitted that even earlier, petitioner had filed bail petition i.e. CRM-M-20137-2023 and CRM-M-50512-2023, which were dismissed vide orders dated 19.05.2023 and 08.12.2023 respectively. He further submits that no additional grounds have come, in which petitioner will be entitled to bail. Counsel for the State opposes the bail by stating that only three witnesses are remain to be examined and they undertake not to delay the trial any further and petitioner has massive criminal history of 20 criminal cases, out of which three cases were of proclamation which itself shows that if he is given bail, he would not attend the trial at all. State counsel further submits that out of the criminal cases pending against the petitioner, one case is under 302 IPC, two cases are under Section 395 IPC and one is under Section 307 IPC, which are heinous and dangerous offences.

REASONING:

4. In Paramjeet Singh v. State of Punjab, 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.

5. The facts of the case are being extracted from para 7 of the order dated 08.12.2023 passed in CRM-M-50512-2023, which reads as follows:-

“7. The facts of the case are being extracted from paragraph No.2 of the reply dated 25.11.2023 filed by the concerned Deputy Superintendnet of Police, which reads as follows:

2. That, I have scrutinized the case file and other relevant records pertaining to this case and found that on the statement of Rajesh S/o

Sh. Balbir Singh, resident of village Shando, district Jind a case FIR No. 36 dated 22.02.2017 u/s 307, 120-B, 34 IPC read with 25-54-59 of Arms Act was registered at Police Station, Alewa on the allegations that on 21.02.2017, at about 6.30 p.m., when he was sitting on a chair then three boys came from back side. Sandeep S/o Sh. Ram Phal was having pistol in his hand and he fired gun shot toward him which was missed. The accused namely Vicky and Ankush, residents of village Pegan, both caught hold him and he tried to get him released from them after manhandling with them, but in the meantime Sandeep loaded second bullet in his pistol and fired gun shot upon him which stuck into his right side below chest (pashu). Then after getting him released from them when he tried to run away towards then from the back side Sandeep fired gun shot from his pistol which hit on his back. In this meantime his elder brother Suresh Kumar rushed towards there and on seeing his coming there, accused fled away from the spot on their motor cycle. Thereafter, he was brought to Civil Hospital, Jind for treatment and where doctor after giving first aid referred to PGIMS Rohtak. His brother Suresh Kumar got admitted him in Sapra Hospital, Hisar. He further alleged that Karan Singh S/o Sh. Ajit Singh resident of village Shamdo have hatched conspiracy with Sandeep etc. with the intention to eliminate him by shot of pistol. (Annexure P-1)."

6. I have heard counsel for the parties and also gone through the petition as well as reply.

7. Counsel for the petitioner submits that he was not named in the FIR and was allegedly supplier of firearm and no injury was caused by him. He further submits that despite the fact that petitioner did not delay the trial, it is still continuing and not concluded. Petitioner also seeks bail on parity with Sandeep, who was granted bail by a Coordinate Bench of this Court vide order dated 25.03.2022 passed in CRM-M-11938-2022. Perusal of the order dated 25.03.2022 explicitly points out that in the said case, petitioner was granted bail because of custody of 04 years & 03 months and also due to the situation arisen out of Covid-19 pandemic, as such the petitioner is not entitled to bail on parity with Sandeep. Petitioner also seeks bail on parity with another co-accused Vicky @ Vikram, who was granted bail by Additional Sessions Judge, Jind vide order dated 01.11.2018. In the said case, there was no criminal history against the petitioner, as such petitioner is also not entitled to bail on parity with Vicky. Petitioner's next contention is that bail can be considered on appreciation of statement of witnesses, which cannot be done by this Court at this stage for the reason that it would adversely effect the interpretation and appreciation of evidence.

8. Considering the petitioner's previous massive criminal history including one under Section 302 IPC, one under Section 307 IPC, two under Section 392 IPC, one

under Section 395 IPC and four under the Arms Act, it is not a fit case, where bail can be granted, also for the most important reason that the trial is at the fag end and the purpose would be achieved by directing the trial Court to expedite the same.

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 within **two** months, of which the prosecution evidence be completed preferably within five months 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 fails to attend the trial without any sufficient cause, then they be dealt with strictly but in accordance with the 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. Petitioner and the State to apprise the trial Court about this order.

(ANOOP CHITKARA)
JUDGE

12.03.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.