

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34839-2024
Reserved on: 06.11.2024
Pronounced on: 18.11.2024

Amit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
125	27.03.2024	Kheripul, Faridabad	307, 332, 353, 186, 379, 34 IPC and Section 21 of Mining Act

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 7 of the bail petition and as per paragraph 9 of reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	34	01.04.2017	148, 149, 323, 342, 506 IPC	Tigaon, Distt. Faridabad
2.	259	25.12.2018	188, 279, 336, 379 IPC	Tigaon, Distt. Faridabad
3.	229	10.09.2019	279, 379, 188, 186, 353, 336, 120-B IPC	Tigaon, Distt. Faridabad
4.	144	05.09.2020	186, 188, 379, 332, 353, 307, 34 IPC	Tigaon, Distt. Faridabad
5.	118	27.03.2024	379, 34 IPC	Central Faridabad
6.	215	04.08.2022	25/54/59 of Arms Act	Tigaon, Distt. Faridabad
7.	96	2017	147, 148, 323, 452, 506 IPC	Tigaon, Distt. Faridabad
8.	82	02.04.2022	379 IPC and Section 21 of the Mining Act	Knowledge Park, UP

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the facts, which led to file the present petition are that the

complainant HC Neeraj alleging that on 27.03.2024 he along with HC Ashok Kumar, HC Bijender Singh and outsource vehicle driver were present for detecting theft of mining duty, meanwhile at 5.00 AM, they received a secret information that one Tata Hywa loaded with Yamuna sand will come from Bhupani side and one Celerio vehicle shall also come accompanying the Tata Hywa. After some time, one Tata Hywa and Celerio vehicle seen coming and on the basis of suspicion, Tata Hywa was signalled to stop, but it did not stop. When police party tried to chase it, the Celerio vehicle intercepted the way of police vehicle stopping it from chasing the Hywa and threatened to kill if they did not stop and as such he helped in fleeing of Hywa. When complainant tried to stop the Hywa, Sahil was the driver of said vehicle, with the intention to kill him, hit the vehicle to him and due to impact he fell down on the road and sustained injuries and MLR of HC Neeraj was conducted by concerned doctor. The copy of MLR is annexed as Annexure R-1. He was given first aid by the police. As the said act of Celerio vehicle has obstructed the police officials from performing their duty and tried to kill him, a penal action was prayed. On the basis of these allegations, present FIR was registered.”

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 his family.

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

6. Perusal of medical report, Annexure R-1 does not point towards injuries which would justify further pre-trial custody.

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

8. As per paragraph 9 of the bail petition, the petitioner has been in custody since 13.05.2024. As per the custody certificate dated 05.11.2024, the petitioner's total custody in this FIR is around six months. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

9. Without commenting on the case's merits, in the facts and circumstances

peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner's complying with the following terms.

13. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

14. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the property, workplace, and residence of the victim until the statements of all non-official and informal witnesses in the trial are recorded. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or cause any discomfort to the victim. Reference be made to *Vikram Singh v Central Bureau of Investigation*, 2018 All SCR (CrI.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

15. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, and their family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed

based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

16. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

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

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

18.11.2024
Jyoti-II

Whether speaking/reasoned:

Yes

Whether reportable:

No.