

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44333-2024
Reserved on: 08.11.2024
Pronounced on: 21.11.2024

Ajay @ Commando ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Samay Sandhawalia, Advocate,
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
251	18.04.2023	Shivaji Colony, District Rohtak	302, 307, 201, 34, 341 IPC and Sections 25, 27, 29 of Arms Act

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. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That the facts of the case are that on 17/4/2023 the police received information that incident of firing has been took place at Balti Factory, Sunaria Road, Rohtak. On the basis of which police reached on the spot and from there police party reached in PGIMS, Rohtak and received the copy of MLR NO.YS/TC/2023/022 dated 17/4/2023 pertaining to Ravinder S/o Chand. In which 4 fire arm injuries were mentioned. The MLR No. YS/TC/2023/023 dated 17/4/2023 of injured Balwan S/o Peeru Ram R/o Sunaria Chowk, Rohtak was also received in which 1 fire arm injury has been mentioned. It has also been reported that Sukhvinder S/o Chand had expired in this incident. Later on after doctor's opinion the injured

Ravinder s/o Balbir Singh moved a complaint to the police to the effect that he has been running a Gym at Ashoka turn by the name OZONE. His brother Sukhvinder has been staying with him in the Gym. He has been running the Gym for the past five years. Four-five days before a squabbling had escalated of him at Suncity with accused Vansh. Vansh accordingly intimidated him to face the dire consequences of death. Accordingly on 17.04.2024 while he (Ravinder) alongwith his brother Sukhvinder and his maternal uncle Balwan was going at his house in a Swift Car bearing No. HR-12AP-4250, in the meantime at about 10.00 p.m. while he was passing through the Balti Factory, Vansh alongwith his friend Ajay @Commando (petitioner) and 2-3 other boys stopped their vehicle. Ajay @ Commando son of Krishan (petitioner) was seated on the conductor seat, Vansh was on the back seat of vehicle. Two-three boys were also seated in the car. One accused was driving the vehicle. All four accused opened the fire upon him with intention to cause the death randomly. One bullet struck to his (Ravinder) right elbow, second bullet struck to his (Ravinder) chest. His maternal uncle Balwan also sustained injuries on the right elbow. The complainant was driving the vehicle. His brother Sukhvinder was on the back seat and he also sustained bullet injuries on his neck, mouth and other parts of the body. The accused fled away from the spot. On the basis of said complaint a case vide FIR No.251 dated 18/4/2023 U/s 302, 307, 341, 34 of IPC and 25, 27, 29 of Arms Act was registered against the accused at P.S. Shivaji Colony, Rohtak."

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

"6. That the disclosure statement of arrested accused were recorded on 28/4/2023 and as per their disclosure statement the accused Vansh Gullia, Ajay Commando (petitioner) and Anuj have disclosed that they have thrown the pistol and bullets used in the incident with intention to destroy the evidence and accordingly Section 201 IPC & 27 Arms Act were added in this case. As per their disclosure statement the accused Vanah Gullia,

Ajay Commando and Anuj have demarcated the place of occurrence and Maruti Swift Car No.HR-12X-8055 used in the incident was recovered from Railway Station, Rewari as per their demarcation. The accused Anuj and Ajay @ Commando got recovered their mobile phones and they also demarcated the place where they thrown the pistols used in the incident in the train. The accused Vansh demarcated the place where he kept concealed one pistol with one 9 mm bullet.

7. That as per his disclosure statement the accused Vishal @ Vishu demarcated the place of occurrence and got recovered his mobile phone.

8. That during further investigation it has been revealed that one pistol and magazine of 9 mm. bullet was recovered by G.R.P. Rewari vide case FIR No.43 dated 18/4/2023 U/s 25, 54, 59 Arms Ac P.S.-G.R.P. Rewari. The documents of case FIR No.43 were also taken into possession in this case."

7. It would be appropriate to refer to the following portions of PW-4 and PW-5, both the injured witnesses, who did not support the prosecution's case, and their Examinations in chiefs read as follows:

"Witness No.5: Ravinder son of Balbir

Deposed that on 17.04.2023 at about 09:00 p.m, I along with my brother Sukhvinder since deceased and my maternal Uncle Balwan were going towards Rupaya Chowk from Jhajjar Chungi, Rohtak. We were in Car bearing registration No. HR12-AP-4250 make Maruti Swift driven by me. My maternal uncle was sitting on the conductor seat and Sukhvinder was sitting on the back seat. When we reached near Public Health office, Rohtak two unknown persons came on motorcycle. They waylaid their vehicle in front of our vehicle. They were carrying pistols. They pointed pistol upon us and trying to snatch our vehicle. When we tried to ran away but they opened fire upon us. One bullet hit my maternal uncle. Sukhvinder sustained 4/5 bullets and I sustained three bullet injuries. Hearing the noise some people came there and accused fled from the spot and their weapons were left over at that place only. I called my father. My father alongwith police officials came at the spot. Police lifted three pistols from the spot. We were taken to PGIMS, Rohtak. During treatment my brother scummed to bullet shot injury. Police obtained my signature on various blank papers.

Further examination in chief is deferred as accused are not produced physically as well as V.C is not working today due to breakdown of server."

"Witness No.5: Ravinder son of Balbir

Recalled for further examination in chief.

I have seen accused persons produced before the Court through V.C for the first time and they are not the person who had fired upon us.

xxx xxx xxx"

"Witness No.4: Balwan Singh son of Peeru Ram

Deposed that on 17.04.2023, I along with my two bhanje namely Sukhvinder since deceased and Ravinder were going towards Rupaya Chowk from Jhajjar Chungi, Rohtak. We were in Car bearing registration No.HR12-AP-4250 driven by Ravinder. I was sitting on the front seat and Sukhvinder was sitting on the back seat. When we reached near Public Health office, Rohtak two unknown persons came on motorcycle. They waylaid their vehicle in front of our vehicle. They were carrying pistol. They pointed pistol upon us and trying to snatch our vehicle. When we tried to ran away they fired upon us. One bullet hit me. Sukhvinder sustained 7/8 bullets and Ravinder sustained 2/3 bullet injuries. Hearing the noise some people came there and accused fled from the spot and their weapons were left over at that place only. Father of Ravinder alongwith police officials came at the spot. Police lifted three pistols from the spot. We were taken to hospital.

Further examination in chief is deferred as accused are not produced physically as well as V.C is not working today due to breakdown of server."

"Witness No.4: Balwan Singh son of Peeru Ram

Recalled for further examination in chief.

xxxx xxxx xxxx

Cross-examination by Sh. Anuj Dahiya, learned Public Prosecutor for the State.

xxxx xxxx xxxx

Deceased Sukhvinder and injured Ravinder are my real bhanja. It is correct that red colour Swift belongs to Ravinder. It is correct that Sukhvinder was running Gym at Ashoka Turn. I do not know if Sukhvinder's family members are constructed house at Sun City, Sector-36, Rohtak or not. It is also correct that MLR No.YS/TC/2023/023 mentioned the name of injured as Balwan son of Peeru Ram and date of arrival is 17.04.2023. It is wrong to suggest that I am deposing falsely on this point. It is correct that I had sustained bullet shot injury and taken treatment at PGIMS, Rohtak and I remained admitted about one week. It is wrong to suggest that accused persons namely Vishal, Ajay @ Commando, Anuj and Rahul are produced before the Court through V.C are the same person who were involved in

the present occurrence and accused Vishal, Ajay, Anuj and Vansh were present at the time of occurrence and they fired upon us or that due to their bullet shot injury Sukhvinder died due to bullet injury or that they have actively participated in the occurrence in collusion with Rahul @ Baba or that due to compromise I am resiling from my statement made by me to the police voluntarily. It is wrong to suggest that due to compromise I am resiling from my statement and intentionally not identifying the accused persons or that I am deposing falsely.

Cross-examination by Sh. Surender Verma and Gaurav Khurana, Advocate for accused.

Nil. Opportunity given.”

8. Given the evidence of the eyewitnesses, who were not only inured but closely related to the deceased, and the other factors peculiar to this case, there would be no justifiability 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. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.**

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

16. 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.

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

(ANOOP CHITKARA)
JUDGE

21.11.2024
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.