

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46477-2024
Reserved on: 06.11.2024
Pronounced on: 18.11.2024

Jatinder Singh @ Zimmy ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.S. Sandhu, Advocate,
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
37	07.03.2023	Sri Anandpur Sahib, District Roopnagar	302, 34 IPC (Section 323 IPC added later on)

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

“2. That in compliance thereto, it is respectfully submitted that the factual matrix pertaining to present case is that, on 06.03.2023, the investigating officer-SHO Police Station Sri Anandpur Sahib, along with the police party was on patrolling duty in connection with Holla Mohalla festival at Sri Anandpur Sahib, in a government vehicle bearing No.PB-12-M-6620, and at about 10:30 PM, he received information that an altercation had taken place near the reception gate in the area of village Badhal and one person had received an injury. It is further submitted that on receipt of the aforementioned information, investigating officer-SHO Police Station Sri Anandpur Sahib, reached the spot, where a large number of devotees

were present and a person in the robe of a Nihang, was lying injured on the road. It is further submitted that Gurdarshan Singh son of Balbir Singh, resident of village Soita, District SBS Nagar, and Ranjit Singh son of Manga Singh resident of Bhagat Singh Nagar, Khanna, who were found at the spot, were known to the injured and they disclosed the identity of the injured person lying on the road, as Pardeep Singh @ Prince. It is further submitted that injured Pardeep Singh @ Prince was rushed to Civil Hospital Sri Anandpur Sahib, where he was declared dead, and thereafter the dead body was shifted to the mortuary of Civil Hospital, Rupnagar.

4. *That it is further submitted that after the postmortem, the viscera of the deceased-Pardeep Singh@ Prince, was sent to the Chemical Examiner, Punjab. However, on receipt of the report of Chemical Examiner, no poison was detected in any limb of the deceased-Pardeep Singh @ Prince. It is further submitted that the board of doctors declared cause of death in this case as injury to vital organ-right lung, leading to hemorrhagic shock, which was sufficient to cause death in the ordinary course of nature. The probable time between injury and death was declared within few minutes and all the injuries were declared to be antemortem in nature."*

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 status report.

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

"8. That it is further submitted that Satbir Singh @ Ladi, was arrested and the Swraj-744 tractor bearing No.PB-12-Y-3329 which was fitted with big woofers and a music system and had one damaged woofer with a hole of sword size was taken into police possession. It is further submitted that two bent swords used by accused Satbir Singh @ Ladi and deceased-Pardeep Singh @ Prince during fighting with each other at the time of occurrence and a small sword stabbed by accused-Satbir Singh @Ladi to deceased Pardeep Singh @ Prince were also recovered and taken into police possession.

A. ROLE OF THE PETITIONER:

It is respectfully submitted that from the four videos which were taken on record during investigation, the Petitioner- Jatinder Singh @ Zimmy and his co-accused Narinderpal Singh @ Nindu have been seen jostling with the deceased-Pardeep Singh @ Prince during the occurrence. It is further submitted that from the postmortem report of the deceased-Pardeep Singh @Prince, it has been established that there is one stab wound (injury no.1 as mentioned in para no.3 of instant Status Report) on the body of the deceased-Pardeep Singh @ Prince and the same is attributed to accused-Satbir Singh @ Ladi, whereas, the remaining injuries are abrasions and bruise which are blunt and simple injuries.

It is further submitted that since the Petitioner-Jatinder Singh @ Zimmy and Narender Pal Singh @ Nindu were jostling and scuffling with the deceased-Pardeep Singh @ Prince without any intention to kill him, therefore, during the investigation, their role has been established to cause simple blunt injuries to the deceased-Pardeep Singh @ Prince.

B. THE EVIDENCE AGAINST THE PETITIONER

It is respectfully submitted that there are three eye-witnesses in the present case namely Gurdarshan Singh, Ranjit Singh and Lovepreet Singh and out of them one prosecution witness namely Lovepreet Singh has already been examined before the Ld. Trial Court as PW-2. Apart from this, there are several videos of the incident filmed by the general public present at the spot and which are made part of the case record, as evidence.”

7. It has come in evidence that the accident had happened in spur of the moment and the scuffle ensued. In between, Satbir Singh took small sword from the deceased Pardeep Singh and stabbed him with it on the right side of his chest which turned fatal. Thus, there was one fatal blow which was caused by Satbir Singh and there is no evidence of mediation or deliberations between Satbir Singh and petitioner so as to prima facie attribute the said blow upon the petitioner.

8. 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.

9. This court granted bail to a similarly placed co-accused in CRM-M-10181-2024 Narender Pal Singh v. State of Punjab, decided on 30 August 2024.

10. As per paragraph 14 of the bail petition, the petitioner has been in custody since 13.05.2023. As per the custody certificate dated 04.11.2024, the petitioner's total custody in this FIR is around one year and 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 of further pre-trial incarceration at this stage.

11. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

12. 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.

13. 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 Ilqa 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.

14. 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)	

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

16. 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.

17. 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 (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

18. Given the background of allegations against the petitioner, it becomes paramount to protect the victim's family, and incapacitating the accused would be one of the primary options until the final conclusion of case. 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.

19. 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."

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

21. 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.

22. **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.