

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45631-2024
Reserved on: 06.11.2024
Pronounced on: 18.11.2024

Ankit Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Tushar Wadhwa, Advocate
for the petitioner

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
07	15.01.2024	Sadar Ludhiana, District Ludhiana	457, 395, 120-B IPC and 25, 27, 54, 59 of Arms Act (Sections 22, 61, 85 of NDPS Act 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 26 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:

“4. That the brief factual matrix pertaining to the present case are mentioned hereinbelow:
i. That on the basis of the statement provided by an individual, namely Jagdish Kumar (hereinafter referred to as "the complainant"), the present case, i.e., FIR No.7 dated 15/01/2024, was registered initially under Sections 457, 395, 120-B of the IPC and Sections 25 and 27 of the Arms Act at PS Sadar, Ludhiana, wherein unknown individuals were arrayed as accused.
ii. That it was alleged by the complainant in the aforementioned FIR that

he owns a shop named Sodhi Jewelers located on Gill Road, Ludhiana. On 14/01/2024, at around 06:30 PM, while the complainant was seated in his shop, five unknown individuals entered the premises. One of the individuals had his face covered with a mask, while the others had uncovered faces. Three of the said individuals were armed with pistols. Initially, they asked the complainant for a gold ring, but the situation quickly escalated when one of the individuals grabbed him. Another individual took a pistol from his pocket, placed it against the complainant's stomach, and demanded that he hand over whatever valuables he had.

iii. That as per the allegations, the complainant raised an alarm and attempted to resist, leading to a scuffle with the assailants. During this altercation, the assailants reportedly took approximately 3-4 kilograms of silver items and 25-30 grams of gold jewelry from the shop. As they attempted to flee, the complainant's brother, who operates a flour mill next to the shop, came to his aid. The assailants then fled the scene in a vehicle, during which they fired a gunshot. The complainant described the vehicle of the assailants as being white in color with "AURA" written on it.

iv. That upon the registration of the aforementioned FIR, the footage from the CCTV camera installed inside the shop of the complainant was reviewed. The footage revealed that during the incident, five individuals entered the shop. One of them was carrying a black carry bag, wearing a cap and a jacket. The second individual was wearing a maroon-colored cap, a sleeveless white jacket, and was armed with a pistol. The third individual was wearing a hoodie jacket with his face covered by a mask. Additionally, two more individuals, both wearing jackets and armed with pistols, were seen entering the shop and standing at the gate. The individual with the black bag was observed taking silver jewelry from the boxes in the shop and placing them into the bag. Meanwhile, the individual wearing the maroon cap and sleeveless white jacket was seen threatening the complainant with a pistol. Another individual was seen taking gold ornaments from the vault of the shop. Following these actions, the assailants fled from the spot.

v. That during the course of investigation of present case, the footage from the CCTV cameras installed in the vicinity was reviewed. From this footage, the vehicle of the assailants was identified as having the number T0723PB9868D. The investigating officer then visited Grover Hyundai (a registered seller of Hyundai vehicles) and discovered that the car was

registered in the name of one Chander Mohan Singh i.e. the father of the petitioner. The investigating officer proceeded to the residence of Chander Mohan Singh and questioned him. Chander Mohan Singh disclosed that he had purchased the said vehicle for his son, Aniket, to use as a taxi. He further revealed that his son had not returned home since 31/12/2023. Additionally, on 14/01/2024, Chander Mohan Singh received a phone call from Aniket Singh, who confessed that he had made a big mistake by robbing a jewelry shop on Gill Road with his friends, including Rahul.

vi. Thereupon on 19/01/2024, based on a secret information, Rahul, Aniket (the petitioner) and Navdeep Dubey @ Golu were apprehended on the car bearing number T0723PB9868D. During the search of Aniket i.e. the present petitioner, an air pistol toy and a polythene bag containing jewelry weighing 435 grams were recovered. From Rahul, a polythene bag carrying 410 grams of silver jewelry was found. From Navdeep Dubey, a black polythene bag containing 350 grams of silver jewelry was recovered. These items were seized by the police via separate memos. The car bearing number T0723PB9868D, with its engine number removed, was also taken into police possession.

vii. That during questioning of the aforementioned accused, it was revealed that individuals namely Ankit Kumar, Karan, Sachin, and Sanjay Kumar were also present during the incident, and thus, they were arrayed as accused. The statement given by Navdeep Dubey under Section 27 of the Indian Evidence Act led to the recovery of a motorcycle that was also used in the offense, bearing number PB-91Q-1426.

viii. That on 19/01/2024, Ankit Kumar was arrested, and during his search, a .315 bore pistol, three live cartridges, and a polythene bag containing 455 grams of silver jewelry were recovered. Karan @ Babloo was also arrested, and a .315 pistol, two live cartridges, and a polythene bag containing 355 grams of silver jewelry were found in his possession.

ix. That on 24/01/2024, accused Krishan Kumar @ Kala and Sanjay Kumar @ Sanju were arrested. During the personal search of Krishan Kumar @ Kala, silver jewelry weighing 115 grams was recovered, while Sanjay was found with a country-made pistol, one live cartridge, and silver jewelry.

x. That on 01/02/2024, accused Manu Mehta @ Sachin was apprehended. During his search gold nose ring weighing 2 tolas and 1 mili, silver jewelry weighing 320 grams, a .32 bore pistol, and six live cartridges. Thereupon on the basis of the disclosure made by the During questioning, Manu Mehta @ Sachin disclosed the location of 30 strips

containing 60 tablets each (totaling 1800 tablets) and 360 loose tablets of "Alprazolam Tablets IP 0.5 mg ALPRasafe 0.5". Consequently, offenses under Sections 22, 61, and 85 of the NDPS Act were added to the present case. The recovered contraband and accused Manu Mehta were produced before the Learned Judicial Magistrate of First Class (JMFC), Ludhiana, where inventory proceedings were conducted, and the contraband was sent to the Forensic Science Laboratory (FSL) for examination."

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. There is sufficient prima facie evidence connecting the petitioner with the alleged crime.

7. However, the similarly placed co-accused Kishan Kumar @ Kala and Sanjay Kumar @ Sanju were granted bail by the Sessions Court, vide order dated 20.03.2024 and similarly placed co-accused Rahul was granted bail by this Court, vide order dated 30.08.2024. Further, as per paragraph 13 of the bail petition, the petitioner has been in custody since 19.01.2024. As per the custody certificate dated 05.11.2024, the petitioner's total custody in this FIR is nine months and 11 days. 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.

8. 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.

9. 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.

10. 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)	

11. This order is subject to the petitioner’s complying with the following terms.

12. 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.

13. 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.

14. 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.

15. 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.”

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

17. 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.

18. **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.