

CRM-M-48072-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48072-2024
Reserved on: 15.02.2025
Pronounced on: 28.02.2025

Ranjan Kumar alias Chhotu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anil Kumar Garg, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
207	20.09.2019	Focal Point District Police Commissionerate Ludhiana	342, 397, 450, 452, 148, 149 IPC and 25 of Arms Act, 411 IPC added later on

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 9 of the bail petition and para 23(C) of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	215	2019	457 IPC	Division No.6, District Police Commissionerate Ludhiana
2	120	2017	307, 323 IPC	Focal Point, District Police Commissionerate Ludhiana
3	63	07.04.2017	458, 380 IPC	Sahnawal, District Police Commissionerate, Ludhiana
4	320	2016	399 IPC	Focal Point, District Police Commissionerate Ludhiana
5	305	2016	457, 380 IPC	Focal Point, District Police Commissionerate Ludhiana
6	321	2016	25 of Arms Act	Focal Point, District Police Commissionerate, Ludhiana
7	186	2019	457, 380, 411 IPC	Focal Point, District Police Commissionerate, Ludhiana
8	321	17.12.2022	457, 380, 411 IPC	Focal Point, District Police Commissionerate, Ludhiana
9	137	09.06.2021	379, 336, 34 IPC	Sahnawal

10	84	08.03.2017	458, 380, 506 IPC	Focal Point
11	355	26.11.2014	380, 457, 413, 34 IPC	Focal Point
12	97	01.05.2022	457, 380, 411 IPC	Focal Point

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

“...it is respectfully submitted, that the answering deponent discussed the matter with SHO, P.S Focal Point District Police Commissionerate, Ludhiana and perused the record. After perusal of record it has revealed that on 20.09.2019 ASI Kashmir Singh alongwith other police officials were present at Jeevan Nagar Chowk Focal Point, Ludhiana in search of suspected persons and vehicles then a secret information was received by ASI Kashmir Singh, revealing the existence of a gang engaged in armed robberies and theft in factories across Ludhiana by the gang led by (i) Ranjan Kumar @ Chhotu (Present petitioner) (ii) Yakir Hussian (vi) Santosh @ Ganja (vii) Nexi, (iii) Rajesh Kumar (iv) Shahrukh (v) Chandarma Yadav (viii) Sarvan Kumar and (ix) Rajan committed the crimes by entering factories illegally by threatening workers at gunpoint, locking them in rooms, and stealing valuable metals (e.g., nickel, brass) and further selling stolen goods to (x) Kulwinder Singh @ Kala and (xi) Raman Kumar.”

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 their 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:

“ROLE OF THE PETITIONER:
(i) Petitioner is the mastermind and primary planner of the gang.
(ii) Petitioner actively participated in robberies and intimidated workers using 32 bore Indian made pistol.
iii) Petitioner alongwith co-accused entered Bajwa Box Factory, assaulted the workers, threatened them with a pistol, held them captive, broke the locks of the factory, and robbed 5 quintals of brass scrap, 80 nickels and 80 kg of silver, which were loaded into a truck.”

REASONING:

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

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sentencing.

8. Per paragraph 4 of the bail petition, the petitioner has been in custody since 25.05.2024 and accordingly his custody in this FIR is approximately 09 months.

9. 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.

10. 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.

11. 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.

12. 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)	

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 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,

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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. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

17. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

18. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

28.02.2025

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Whether speaking/reasoned: Yes

Whether reportable: No.