

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49904-2021
Reserved on: 16.08.2022
Pronounced on: 29.08.2022

Karandeep @ Khusla and others ...Petitioners

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.K. Malik, Advocate for the petitioners.

Mr. Anmol Malik, DAG, Haryana.

Mr. Rishi Nihjawan, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
300	20.10.2021	Kaithal Sadar, District Kaithal	148, 149, 323, 424, 506, 302 IPC (later on added Section 325 IPC and Section 3(2) (va) of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act 1989 (Amendment 2015)

1. The petitioners apprehending arrest in the FIR captioned above came up before this Court under Section 438 Cr.P.C. seeking anticipatory bail.
2. In paragraph 13 of the bail petition, the accused declares that they have no criminal antecedents.
3. The petitioners, as members of unlawful assembly inflicted injuries to the deceased on Oct 20, 2021, who succumbed to the injuries on Jan 4, 2022.
4. Ld. Counsel for the petitioners contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. Ld. counsel representing the State opposes bail and so does the complainant.

REASONING:

6. **PETITIONER No.1 Karandeep Singh @ Khusla:**

(a). As per paragraph 13 of the status report, the petitioner stated that no other case has been registered against him; however, as per the complainant, the petitioner Karandeep @ Khusla has one heinous offence pending against him, which he intentionally concealed from the court:

Sr. No.	FIR No.	Date	Offences	Police Station
1	6	7-1-2021	307, 353, 332, 109 IPC	City Kaithal

(b). Given above, and the unfair conduct of the petitioner does not entitle him to anticipatory bail under section 438 Cr.P.C. Even on merits, the petitioner allegedly gave a danda blow on the back of the deceased. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 Cr.P.C. The interim protection granted on 30-11-2021 is recalled. Bail bonds are cancelled.

7. **PETITIONERS NOS. 2 to 7, NAMELY SUKHWINDER @ BONA, DHARAMPAL @ SATTA, SANDEEP ALIAS DEEPAD, NEERAJ, BIMLA AND SUNITA:**

(a). No injuries have been attributed to any of these accused.

(b). The petitioners were granted interim protection, and during the interregnum, there is no allegation that they had intimidated the victim or victim's family or the witnesses or that he had hampered the investigation, or despite being called to join the investigation, he did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, and the same is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

8. The petitioners no. 2 to 7 shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

9. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners no. 2 to 7 shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within fifteen days from today and inform the Investigator about the compliance. However, subject to the Indian

Arms Act, 1959, the petitioners shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules.

10. Till the completion of the trial, the petitioners no. 2 to 7 shall not contact, call, text, message, remark, stare, stalk, make any gestures or express any unusual or inappropriate, verbal or otherwise objectionable behavior towards the victim and victim's family, either physically, or through phone call or any other social media, through any other mode, nor shall unnecessarily roam around the victim's home.

11. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners no. 2 to 7 shall not enter the property, workplace, and the residence of the victim and shall also not enter within a radius of five-hundred meters from the victim's home till the recording of the statements of all non-official and informal witnesses in the trial. 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. State of Madhya Pradesh, 2021 SCC Online SC 230.

12. During the trial's pendency, if the petitioners no. 2 to 7 repeat or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

13. The conditions mentioned above imposed by this court are to endeavour that the petitioners no. 2 to 7 do not repeat the offence and to ensure the safety of the witnesses, victim, and their families. In Mohammed Zubair v. State of NCT of Delhi, 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."

14. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offence in this FIR, and if the new section prescribes maximum sentence which is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above, then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days providing an opportunity to avail the remedies available in law.

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

17. In return for the protection from incarceration, the Court believes that the petitioners no. 2 to 7 shall also reciprocate through desirable behavior.

Petition disposed of to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

29.08.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.