

CRM-M-1726-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1726-2024
Reserved on: 20.08.2024
Pronounced on: 30.08.2024

Navpreet and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sahil Puri, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0047	24.07.2023	Dhilwan, District Kapurthala	323, 341, 34 IPC and 307 IPC added later on

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. In paragraph 18 of the bail petition, the accused declare that they have no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the present FIR No. 0047 dated 24.07.2023 was initially registered U/s 323,341,34 of IPC (Section 307 of IPC added lateron) at Police Station: Dhilwan, District Kapurthala on the statement of complainant Harman Singh against Akashdeep, Jashanpreet, Manpreet and Gurpreet@ Navpreet wherein complainant has stated that he is posted as Constable General Rank in the Punjab Police and on 23.07.2023 along with his cousin Sukhpal Singh, friend Balraj Singh on their car Verna no. PB 46 R 7001 had come to PK Talli Ahata (location for the consuming liquor near liquor vends) in order to celebrate birthday of Sukhpal Singh and at about 10:00/10:30 P.M. they about to left for their home from PK Talli Ahata in their car Verna no. PB 46 R 7001, in the meantime four young men namely Jashanpreet Singh @ Jashan, Akashdeep Singh @ Akash armed with kirch, Manpreet Singh @ Manna and Gurpreet Singh being of the same locality and known to the complainant were come and standing in front of their car.”

4. The petitioners' counsel prays for bail by imposing any stringent conditions and

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contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their families.

5. The State's counsel opposes bail and refers to the reply.

6. The addition of offense was after two weeks and was based on medical opinion, and the nature of injuries would not justify custodial interrogation or pre-trial incarceration.

7. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

8. The petitioners were earlier granted interim bail vide order dated 06.02.2024, which is continuing till date and during the interregnum, there is no allegation that they had intimidated the witnesses or try to delay the trial. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for bail.

10. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners shall not enter the victim's property, workplace, and residence 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 (CrI.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

11. Given the background of allegations against the petitioners, 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 petitioners 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 petitioners shall be entitled to renew and take it back in case of acquittal in this

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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.

12. 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."

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

14. A certified copy of this order would not be needed and any Advocate for the Petitioners 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.

15. **Petition allowed** and interim order dated 06.02.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.