

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9376-2024
Reserved on: 07.08.2024
Pronounced on: 30.08.2024

Onkar Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rajat Dogra, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
60	09.09.2019	Arif Ke, District Ferozepur	302, 307, 201, 336, 148, 149, 182, 195, 120-B IPC and 25/27 of Arms Act

1. After dismissal of the anticipatory bail by the Sessions Court, the petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC.
2. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. 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.
4. The State opposes bail.
5. Counsel for the petitioner submits that the petitioner was initially absolved and he was not arraigned as an accused in the police report filed under Section 173(2) CrPC. After that even one of the accused Gurjant Singh was discharged, but the Court vide order dated 11.09.2023 summoned the petitioner for commission of offence punishable under FIR captioned above.

6. An analysis of the above arguments would lead to the outcome that initial investigation was concluded on 24.11.2019 against Jaspal Singh and report was filed before the concerned Court on 09.12.2019 in which petitioner was not arraigned as accused. Subsequently, one supplementary report under Section 173(8) CrPC was filed on 12.10.2021 and another on 31.01.2023 against Gurjant Singh in which Jaspal Singh and Jagjit Singh were declared innocent. This supplementary report was filed by SIT. However, vide order dated 11.09.2023 supplementary report against Gurjant Singh was rejected and cognizance under Section 193 CrPC was taken against Ranjit Singh, Onkar Singh, Lovepreet Singh, petitioner, Thaman Singh and Jaswinder Singh and they were summoned. Given the fact that petitioner was absolved not only in the first report under Section 173(2) CrPC but was also not arraigned in the supplementary report filed under Section 173(8) CrPC as mentioned above. It was the Court who had summoned the accused in exercise of power under Section 193 CrPC. Thus, on this ground alone, it is not a case for custodial interrogation or pre-trial incarceration. Although the offence is under Section 302 IPC but it would not mean that simply because the offence is serious, then bail has to be rejected.

7. Given the penal provisions invoked 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 custodial interrogation or the pre-trial incarceration at this stage. 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.

8. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory 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 Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

9. 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)	

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

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

12. 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.

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

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.