

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.10569 of 2024
Reserved on:07.08.2024
Pronounced on: 30.08.2024

Lovepreet 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.

Ms. Anmol, Advocate for the victim-Gurjant Singh.

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, 120B IPC and 25, 27 of Arms Act, 1959

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail for the second time.
2. Earlier the petitioner had filed a bail petition in the year 2019, which was dismissed on merits. However, after that the investigator did not find the petitioner’s involvement and absolved him. Subsequently, the Trial Court summoned him under Section 193 CrPC, and apprehending arrest, the petitioner has again come up to this Court seeking anticipatory bail. Thus, in the peculiar background, the second bail petition is maintainable.
3. Vide order dated 28.02.2024, the petitioner was granted interim bail, which continues to date.
4. Facts of the case are being taken from reply dated 19.07.2024 which reads as under:

“3. That brief facts of the case are that complainant got recorded his statement with the police that on 08.09.2019 he alongwith his son Nirvail Singh and Gurjant Singh was going back to his house on car bearing No. PB05S-0079 being driven by Nirvail Singh. When they reached at the turn of street abutting to their house,

then Jaspal Singh s/o Sewa Singh armed with 315 bore rifle, Ranjit Singh son of Sewa Singh armed with pistol, Tejinder Singh s/o Dilbag Singh armed with Dang. Lovepreet Singh s/o Rajinder Singh armed with 12 bore gun, Thaman Singh s/o Bakshish Singh armed with dang, Onkar Singh s/o Lakhwinder Singh armed with rifle, Jagmeet Singh armed with sword and Jaswinder Singh armed with dang were standing. Then all of them rounded up the complainant and companions and their car. Tejinder Singh raised Lalkara to teach them lesson for taking possession of panchayati land. Then complainant alighted from the car and requested them not to do so. At about 6/6.15 PM Jaspal Singh fired a shot of his rifle towards complainant with intention to kill him which hit on stomach and left shoulder of the complainant and complainant fell down on the ground. Then Ranjit Singh started firing shots in air and Onkar Singh also started firing shots in air. Then accused Jaswinder Singh and Jagmeet Singh also started raising lalkaras. In the meantime, complainant become unconscious and his sons got admitted him in BaghiHospital, Ferozepur. Cross version, on the basis of statement of Jaspal Singh s/o Sewa Singh was registered u/s 452/336/34 IPC and 25/27 Arms Act. During investigation on 10.09.2019 it came into know that Nishan Singh died. Postmortem of the deceased was got conducted.”

5. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

6. The State's counsel opposes the bail.

7. It would be appropriate to extract paras 6 & 7 of the reply which read as follows:

“6. That during investigation it was also found that Nishan Singh died due to the firearm shot by his son Nirvail Singh with his Springfield gun. Whereas during investigation of Jaspal Singh, Ranjit Singh, Tejinder Singh, Lovepreet Singh, Thaman Singh, Onkar Singh, Jagmeet Singh and Jaswinder Singh were found to be innocent whereas Nirvail Singh and GurjantSingh sons of Nishan Singh were found as culprits. It is Pertinent to mention here that in conclusion of investigation report of SIT, DDR No. 28 Dated 10-9-2019 registered on the statement of Jaspal Singh S/o Sewa Singh was also declared false by SIT.

7. That accused Gurjant Singh was arrested by the police on 15.07.2021. However, said Nirvail Singh died during investigation. After completion of investigation supplementary challan against Gurjant Singh and by declaring said Jaspal Singh, Ranjit Singh, Tejinder Singh, Lovepreet Singh, Thaman Singh, Onkar Singh, Jagmeet Singh and Jaswinder Singh to be innocent in the present case, was presented before the Ld. Trial on 12.10.2021. Applications for discharging Jaspal Singh and Jagmeet Singh were also moved before the Ld. Trial Court.”

8. Despite the dismissal of the petitioner's bail on merits, the Police did not arrest him because the investigation did not find the petitioner's involvement. It is now the Trial Court, which has summoned the petitioner by resorting to S. 193 CrPC, 1973. Thus,

there is no justification for custodial or pre-trial incarceration.

9. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, did not appear before the trial Court. 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.

10. Given the background of allegations against the petitioner, it becomes paramount to protect the complainant, witnesses, and 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, provided otherwise permissible in the concerned rules. Restricting firearms would restrain the accused from influencing the witnesses and repeating the offense.

11. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner 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 (CrL.) 458; and *Aparna Bhat v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

12. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. 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. **Petition allowed** in terms mentioned above. Interim order is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.