

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14026-2024
Reserved on: 06.09.2024
Pronounced on: 27.09.2024

Sahil Tanwar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurmohan Singh Bedi, Advocate
Mr. Anand Vardhan Khanna, Advocate and
Mr. Rohol Rohilla, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. D.A.G., Haryana.

Mr. Roshan Lal Saini, Advocate for
Mr. Tushar Gautam, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No	Dated	Police Station	Sections
42	25.01.2024	Old Faridabad, District Faridabad, Haryana	364-A/386/506/34, IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. Vide order dated 15.04.2024, the petitioner was granted interim bail/ protection, which continues to date.
3. In paragraph 9 of the bail petition, the accused declares that he has no criminal antecedents.
4. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“The complainant stated and raised allegations against the petitioner/accused to the effect that on 24.01.2024 at about 9.00 PM, complainant along with his friend Rajneesh Yadav had gone to attend his friend's son's birthday party at Gurguram. At about 2.00/2.30 AM when they were returning back to Faridabad and reached at Badkhal Chowk, they stopped their car to have Maggie from a Hawker, then a black coloured Scorpio car bearing

registration No.HR-87K-3113 stopped and from it got down, three boys and had started uttering abuses to them, to which the complainant asked the reason without any rhyme and reason, upon which they entered into an altercation and asked Rajneesh Yadav, his friend, to go back home in his car and that he, himself, would return home after talking to them. Rajneesh left in his car. Thereafter, all the three boys forcibly dragged the complainant and took him away in their Scorpio Car, who while talking to one another were referring with the names of Sahil, Bharat and Surrender. They kept abusing him on the way and checked his ATM Card and asked about his bank balance Since, he had only Rs.50/- with him at that time, they demanded a sum of Rs.1 lac from him upon which he expressed his inability to do, who threatened that in case he did not give them the aforesaid amount, he and his family members shall be done to death. They were claiming themselves to be of CIA Staff. They took him across the canal and dropped him near Vipul Plaza BPTP Faridabad at about 5.30 AM. From there, he made a call to the Control room, Faridabad and police officials of the nearby Police Station came to his rescue. Hence, the present case was registered.”

5. 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.

6. The State's counsel opposes bail and refers to the status report.

7. However, there is sufficient prima facie evidence connecting the petitioner with the alleged crime, but the accused did not assault in a cruel or gruesome manner. Per paragraph 8 of the bail petition, the petitioner has been in custody since 26-01-2024 till 16-04-2024. Per the custody certificate dated 04.09.2024, the petitioner's total custody in this FIR is 2 months and 21 days.

8. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. 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. 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 Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

10. 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, 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.

11. 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."

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

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

(ANOOP CHITKARA)
JUDGE

27.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No