

CRM-M-14211-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14211-2024
Reserved on: 01.08.2024
Pronounced on: 30.08.2024

Vikas Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manish Soni, Advocate
for the petitioner(s).

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
309	21.08.2021	Kherki Daula, Gurugram	380 IPC (Sections 381, 382, 411, 454, 457, 476, 120-B, 201 IPC and Section 25(1B)(a) of Arms Act and Section 7/8 of Prevention of Corruption Act 1988 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 on parity with co-accused, Dr. Ashwani Kumar, Dr. Sachinder Jain Nawal, Dr. Gurpartap Singh, Sandeep @ Nitu Sunariya, Amit @ Meeta, Ravinder @ Bittu Dahiya, Ajit Singh @ Ajit, Joginder Singh, Dara Singh @ Dara, Abhinav Sharma, Gurpreet Singh, Chetan Maan @ Boxer.
2. At Annexure R-1of the State’s reply dated 20.01.2024, following criminal antecedents of the accused are mentioned:

1. FIR No. 461/2012 Section 307, 353, 186-IPC & A.ACT Police Station Sadar Jhajjar District Jhajjar

2. FIR No. 48/2012 Section 392, 411, 34 IPC Police Station J.P. Kalan New Delhi.

3. FIR No. 36/2012 Section 392, 34 IPC Police Station J.P. Kalan New Delhi.

4. FIR No. 58/2015 Section 174A IPC Police Station Hari Nagar New Delhi.

5. FIR No. 49/2012 Section 392, 411,482,34 IPC Police Station J.P. Kalan New Delhi.

6. FIR No. 166/2012 Section 302, 1208, 420, 34, 216 IPC & A.ACT Police Station City Bahadurgarh District Jhajjar.

CRM-M-14211-2024

7. FIR No.37/2012 Section 382, 411, 34 IPC Police Station Chhawla New Delhi.
8. FIR No.46/2012 Section 394, 397, 34 IPC Police Station Chhawla New Delhi.
9. FIR No. 67/2012 Section 382, 365, 34 IPC Police Station Chhawla New Delhi.
10. FIR No.84/2012 Section 302, 120B, 34 IPC Police Station Chhawla New Delhi.
11. FIR No.58/2014 Section 147, 149, 333, 353, 307, 302, 120B IPC Police Station Model Town Rewari.
12. FIR No.351/2014 Section 186, 307, 353, 411, 420, 483 IPC & A.ACT Police Station Beri District Jhajjar.
13. FIR No.626/2013 Section 506 IPC Police Station Sadar Bahadurgarh District Jhajjar.
14. FIR No. 153/2012 Section A.ACT Police Station Civil Line Rohtak.
15. FIR No.459/2013 Section 387 IPC Police Station Najafgarh New Delhi.
- 16 FIR No. 159/2012 Section 387, 336, 506, 34 IPC & 27 A.ACT PS Baba Haridas Nagar Delhi.
17. FIR No.227/2015 Section 323, 452, 387, 34, 120 B IPC Police Station Baba Haridas Nagar New Delhi.
18. FIR No. 153/2014 Section 452, 307, 506, 34 IPC & A.ACT Police Station Najafgarh New Delhi.
19. FIR No.531/2015 Section 3 MCOCA and 384 IPC Police Station Najafgarh New Delhi.
20. FIR No.500/2015 Section 25, 27 A.ACT Police Station South Dwarka Delhi.
21. FIR No.60/2014 Section 25 A.ACT Police Station Civil Lines Hisar District Hisar.
22. FIR No. 222/2021 Section 419, 468, 471 IPC& 7/8 PC ACT Police Station Sanoli Panipat.
- 23 FIR No. 302/2022 Section 174A IPC Police Station Shivaji Nagar Gurugram.
24. FIR No.309 Dated 21-08-2021 Section 454, 457, 380, 381, 1208, 411 IPC & 25(1b)(a) A.Act & 7/8 PC ACT Police Station Khedki Daula Distt Gurugram.

3. Perusal of the file shows that earlier a petition (CRM-M-18189-2023) was filed and the said petition was withdrawn on 10.10.2023, with liberty to file a fresh after one year of pre-trial custody in case trial is not concluded till that time.

4. Facts of the case are being taken from the reply dated 07.04.2024, which reads as under:-

“That before proceeding further with the present reply, it is imperative to mention some brief facts of the case, which are that a complaint was submitted by one Santosh Singh alleging therein that he is working as Maintaining Project in Alpha G Crop Management Services Private Limited, Sector 84, Village Sihi

CRM-M-14211-2024

Gurugram. They had collected money from customers for the services rendered to them and kept the same at the office of the company i.e. Flat no.1102 and 1702 Gurgaon. One Society Sectory 84, Kherki Daula, Gurugram. On 20.08.2021, while under instructions to deposit the money in bank, they found that the money had been stolen from the office. On the basis of above allegations, case FIR No.309 dated 21.08.2021 was initially registered u/s 380 IPC at P.S. Kherki Daula, Gurugram.”

5. Petitioner seeks bail on the ground of parity with co-accused, who are similarly placed. 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. Counsel for the State opposes the bail on the ground of massive criminal history. He further refers to role of the petitioner, as mentioned in para 30 of the reply, which reads as follows:-

“30. That the role of the petitioner-Vikas Kumar in the present case is that he had received information from accused- Dr. Sachender Jain Nawal regarding huge black money (in crores) kept in Flat No.F-1102 and 1702 at Alpha G-Corp Society. The petitioner entered into a conspiracy with accused Abhinav Sharma @ Chunnu, Dara Singh @ Dhara, Amit @ Meeta, Ravinder @ Bittu Dahiya, Ajit Singh, Chetan Maan @ Boxer. In pursuance of the conspiracy, accused Abhinav Sharma @ Chunnu took a flat on rent in the said society. Thereafter, on 04.08.2021, accused Abhinav Sharma @ Chunnu, Dara Singh @ Dharan, Amit @ Meeta, Ravinder @ Bittu Dahiya, Ajit Singh, Chetan Maan @ Boxer committed the theft of the said money twice in scorio vehicle. On the instructions of the petitioner Vikas Kumar, the money of the first theft was sent by the above named accused to Dr. Ashwani Kumar at Delhi. Further, on the instructions of the petitioner, the above named accused handed over the amount of the second theft to accused ASI Vikas of Delhi Police. The said ASI Vikas handed over the said money to accused Sandeep @ Nitu on the instructions of the petitioner. Further the petitioner has got recovered the amount of Rs.4,12,00,000/-.”

7. Although, petitioner's case is not covered because of the history and the petitioner had got recovered Rs.4 crore 12 lacs rupees. However, an analysis of the above said arguments, would lead to the following outcome.

8. Although there is prima facie evidence connecting the petitioner with the commission of offence but this Court is not considering the case for quashing of FIR, framing of charges or final trial but only for the purpose of bail. As per para 31 of the reply, the petitioner was arrested on 15.12.2022. It means the petitioner is in custody for more than 01 year & 08 months. Coupled with the fact that similarly placed co-accused have been granted bail, the criminal history is not being considered as a reason for denying bail, subject to the compliance of terms and conditions mentioned in this order.

CRM-M-14211-2024

9. 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.

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

11. 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)	

12. 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.

13. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the property, workplace, and residence of the victim 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.

14. 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

CRM-M-14211-2024

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.

15. 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."

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

30.08.2024.
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.