

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15993-2024
Reserved on: 11.09.2024
Pronounced on: 27.09.2024

Manjeet @ Meetu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Chanderhas Yadav, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
231	25.07.2023	Uklana, District Hisar	25 (I-B) (A)/54/59 of Arms Act and Sections 115/120-B IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking regular bail.

2. Per paragraph 5 of the bail application, the accused has the following criminal antecedents:

Sr. No	FIR No.	Dated	Offences	Police Station
1	118	25.03.2022	323/325/294/452/506/34 IPC	Uklana, District Hisar
2	207	06.06.2022	506 IPC	Bawani Khera, District Bhiwani

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That brief facts of the case are that on 25.7.2023 ASI Raj kumar No. 151/Hisar along with constable Anil No. 1119/Hisar along with constable Virender No. 539/Hisar along with constable Sonu No. 443/Hisar were on patrolling in government vehicle bearing registration No. H20GV-3291 in the area of Dhani chal kari, where the secret informer came and gave information that Manjeet @ Meetu son of Kuldeep resident of village chamar khera is possessing illicit weapons and he was wearing cream colour T-shirt and black colour jeans, it was also informed that he had kept the said illicit weapons in his bag, as well as he is in the

opportunity of going somewhere and in case the raid is conducted then he can be arrested along with said illicit weapons. After relying upon the information ASI informed his colleagues and raiding party was constituted but none among the public was ready to become part of the raiding party, in pursuance of the information when team reached near the House of Manjeet (petitioner) at village Chamar khera then a young boy similar to the particulars told by the secret informer was found standing, who after seeing the raiding party moved towards the opposite direction and when he was restrained and asked about his particulars then he told his name as Manjeet @Meetu son of kuldeep resident of village Chamar khera (present petitioner), ASI Raj kumar conducted the search of said boy and from the bag of the petitioner 2 pistols of 32 bore and one country made pistol of 12 bore were found, prima facie all the weapons were found to be illicit upon which ASI after taking out one 32 bore silver colour pistol from the bag which was containing magazine and it was checked and it was found in an unloaded condition and after checking the said pistol, sketch of the recovered pistol was prepared by ASI Raj Kumar. Similarly, ASI Raj Kumar prepared sketch of all the 3 weapons which were recovered from the petitioner. All the weapons which were recovered were sealed and put in container, the parcels of the same were prepared and they were sealed with seal of RK/I who prepared the recovery memo of the said weapons which were signed by the accused as well as the witnesses. In this manner petitioner Manjeet had committed an offence under section 25(1-B) (A)/54/59 of Arms Act with regard to which the above noted case FIR was registered.”

4. 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.

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

6. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. Per the custody certificate dated 28.06.2024, the petitioner's total custody in this FIR is 11 months and 1 day. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

7. 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 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.

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.

11. 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.

12. 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.

13. 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.”

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

15. 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.

16. **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.