

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18369-2024
Reserved on: 06.08.2024
Pronounced on: 30.08. 2024

Vishal Kumar @ Bhaiya ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. L.M.Gulati, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
46	13.04.2021	Verka, District Amritsar	399, 402 IPC and Sections 25/27 of Arms Act, 1959

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.

2. As per paragraph 11 of the status report, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Dated	Offences	Police Station
1	10	17.01.2019	354/506 IPC	Kamboj, Amritsar Rural
2	137	30.05.2019	32/323/148/149 IPC	Sadar, Amritsar
3	309	18.11.2019	379-B/411 IPC	Sadar, Amritsar
4	20	18.01.2020	452/324/506 IPC	Sadar, Amritsar
5	272	22.09.2020	25/54/55 of Arms Act	Sadar, Amritsar
6	03	07.01.2021	379-B IPC	Verka, Amritsar
7	26	28.02.2021	336 IPC and Sections 25/27/54/59 of Arms Act	Sultanwind, Amritsar
8	59	02.03.2021	379-B/411/34 IPC	Maqboolpura, Amritsar
9	30	03.03.2021	379-B IPC and Sections 25/54/59 of Arms Act	Sultanwind, Amritsar
10	29	04.03.2021	392/34 IPC and Sections 25/27/54/59 of Arms Act	Sadar, Amritsar
11	17	21.03.2021	379-B IPC and Sections 25/57/54/59 of Arms Act	Jhander Amritsar Rural
12	39	23.03.2021	307/323/324 IPC	Bhilowal, Hoshiarpur
13	79	31.03.2021	379-B/34 IPC	Sadar, Amritsar
14	80	31.03.2021	452/323/324/148/149 IPC and Sections	Sadar, Amritsar

			25/27/54/59 of Arms Act	
15	82	----	302/506/148/149 IPC and Sections 25/27/54/59 of Arms Act	Sadar, Amritsar
16	47	02.04.2021	382 IPC and Sections 25/54/59 of Arms Act	Sadar, Batala
17	75	02.04.2021	379-B (2)/ 34 IPC	Kambo, Amritsar Rural
18	38	03.04.2021	379-B(2) IPC and Sections 25/54/59 of Arms Act	Verka, Amritsar
19	96	06.04.2021	379-B IPC	Ajnala, Amritsar Rural
20	81	06.04.2021	307/34 IPC and Sections 25/27/54/59 of Arms Act	Kamboj, Amritsar Rural
21	97	07.04.2021	397 IPC and Sections 25/54/59 of Arms Act	Ajnala, Amritsar Rural
22	109	11.04.2021	307/379-B/34 IPC and Sections 25/54/59 of Arms Act	Focal Point, Ludhiana
23	237	12.09.2021	52 of Prisons Act	Kotwali, Kapurthala
24	247	08.12.2022	325/506 IPC and Section 52-A of Prisons Act	City Gurdaspur
25	122	13.06.2023	52-A of Prisons Act	Sadar Nabha

3. The facts and allegations are being taken from the status report filed by the concerned DySP, which reads as follows:-

“3. That it is humbly submitted that as per the report obtained from SHO PS Verka, Amritsar, the facts of the present Case FIR No. 46, dated 13.04.2021, under Sections 399,402, 411,473 IPC, 25, 27 of Arms Act, Police Station Verka, Amritsar City are that on 13/04/2021 at about 12:10 AM (night), SI Nishan Singh, SHO PS Verka along with other police officials in connection with patrolling and in search of bad elements were present at bus stop Verka then during night duty checking, Inspector Gurwinder Singh, SHO of Police Station B-Division, Amritsar along with other police officials came there and there SI Nishan Singh received secret information that Akshay Kumar, Vishal Bhaiya (present petitioner), Suraj, Jobanjit Singh @ Joban, Ranjodh Singh @ Jodha S/o Jasbir Singh @ Baba, Prince, Jaspinder Singh @ Baba, Harpreet Singh @ Waheguru, Money Singh @ Mota, Sandeep Singh @ Gattu, Lovesh Malhi and Karan have formed a gang for committing robberies and snatchings. They all are armed with deadly weapons and have gathered in a vacant place backside Baba Tahli Sain and were making plan to commit dacoity. If raid is conducted at once then they can be apprehended. Therefore, SI Nishan Singh apprised other accompanying police officials and sent ASI Sham Singh to the above said place in civil dress for making surveillance. ASI Sham Singh made surveillance of the accused for about 15 minutes and heard their conversation, which was further informed to SI Nishan Singh that the accused were talking to one another that looting petrol pump fetch very less money and they were now making plan to loot the Bank of Village Jethuwal. Thereafter, S.I. Nishan Singh along with accompanying police officials surrounded the above mentioned place in a planned manner and conducted raid. During raid, 04 youngsters were

apprehended with weapons whereas 08 youngsters managed to run away from the spot while taking benefit of darkness. The persons who were apprehended from the spot, disclosed their identity as Vishal Kumar (present petitioner), Akshay Kumar, Jobanjit Singh @ Joban and Ranjodh Singh @ Jodha S/o Jasbir Singh @ Baba. During personal search of the present petitioner Vishal Kumar @ Bhaia and other above mentioned apprehended accused persons, the following recoveries were effected from their conscious possession at the spot on 13/04/2021 and the names of the persons who managed to run away from the spot were disclosed as under:

Recoveries from present Petitioner Vishal Kumar @ Bhaiya:-, one pistol loaded with 7 live cartridges of 7.65 KF, one mobile phone, Indian currency notes of Rs. 2500/- and one motorcycle Splendor bearing fake number plate of number PB02-CX-9985, one snatched mobile phone Techno. This motorcycle having original number PB02-DJ-5176 was snatched on pistol point from complainant Manbir Singh on 03.04.2021 in FIR No. 38, dated 03.04.2021, under Section 379-B(2) IPC, 25, 27 Arms Act, PS Verka, Amritsar and it was identified by the complainant. The above mobile phone Techno was also identified by its owner Vikas Kumar as it was snatched from him on 30.03.2021 by the present Petitioner Vishal Kumar @ Bhaiya and co-accused Akshay Kumar.”

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. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, per the custody certificate dated 21-04-2024, the petitioner's total custody in this FIR is two years, 11 months, and 15 days. Given the penal provisions invoked viz-a-viz pre-trial custody of three years, 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 further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

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. 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. 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. 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.

14. **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.