

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.21045 of 2024
Reserved on:15.07.2024
Pronounced on: 30.07.2024

Ajay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
45	07.06.2023	Chabbewal, District Hoshiarpur	336 IPC and Section 25 of Arms Act, 1959 (Sections 386, 506, 120-B IPC and Section 27 of Arms Act added later on)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. Vide order dated 29.04.2024, the petitioner was granted interim bail, which is continuing till date.
3. The facts of the case are being taken from reply dated 15.07.2024 and the relevant paragraph(s) of the same reads as follows:

“2. That it is respectfully submitted that FIR No. 45, dated 07.06.2023 U/s 336,386, 120-B IPC read with Section 25/54/59 of Arms Act was registered at Police Station: Chabbewal, Hoshiarpur against the unknown persons on the basis of statement of complainant Sandesh Kumar that on 7.6.2023 he was getting work done on his iron store. At about 8:43:54 pm, two persons with muffled faces were going on motorcycle from Bhilowal chowk towards village Bhilowal. They stopped their motorcycle and pillion rider of motorcycle started firing from the revolver towards the shop. The bullets hit on the shutter, which resulted in breaking of door glass. Thereafter, they ran away towards village Bhilowal.”
4. 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.

5. The State opposes bail and has referred to relevant paragraph(s) of the reply which reads as under:

"3. That it is submitted that during the investigation, on 9.6.2023, complainant got recorded his supplementary statement in which he mentioned the fact that about 15/20 days ago he had received one whatsapp call from number i.e.+351960065994 and one person demanded Rs.one Crore as ransom from him and further threatened him to face dire consequences if he fails to pay but the complainant did not pay any heed to such a call and thus at that time did not get any statement recorded before the police and thereafter on 8.6.2023, he again received one whatsapp call from number i.e.+97470570988 and he was told that on his failure to pay ransom amount they had to get bullets fired on his shop and if he failed to pay then he will suffer loss of life and property of him and his family. He further stated that the voice was of the same caller.

4. That it is submitted that during investigation, the investigating agency got to know that number i.e. +97470570988 belongs to petitioner-Ajay Kumar who resides in Qatar. The petitioner is close friend of another accused Balwinder Singh @ Binder son of Baldev Singh r/o Village Chabbewal who now resides in the USA. When the reverse sweep of the mobile number was taken, the mobile number of Harpreet Kaur also came to light.

5. That it is submitted that during the investigation, accused Harpreet Kaur, Ranvir Singh Rana and Kulwant Kaur were joined in the investigation and they were arrested in the present case on 10.06.2023 after questioning and during the investigation, Harpreet Kaur confessed that before the Police and it also came to light during investigation that both petitioner- Ajay Kumar and Balwinder Singh @Binder are close friends and petitioner-Ajay Kumar who resided in Qatar shared the OTP which gave access to accused Balwinder Singh @Binder to use his whatsapp number number i.e. +97470570988 while being in the USA and thereafter accused Balwinder Singh @ Binder in connivance with Manraj Singh son of Ranbir Singh resident of Chabbewal got the firing done on the shop of complainant for the purpose of extorting Rs.one Crore from him and the above said number is also present in the call log of Harpreet Kaur. Therefore, accused Balwinder Singh @ Binder, Manraj Singh and petitioner-Ajay Kumar were nominated in the present case and offence U/s 386, 120-B IPC was added to the present case. In this regard DDR No.2, dated 10.06.2023 was recorded in the Police station.

6. That it is submitted that during the investigation, no incriminating evidence surfaced against the accused Harpreet Kaur, Ranvir Singh and Kulwant Kaur and as such they were got discharged in the present case

7. That it is submitted that during the investigation, the accused Manraj Singh and accused Navjot Singh were arrested in FIR No.57, dated 08.07.2023, U/s 307, 353, 186, 506, 120-B IPC and 25/54/59 Arms Act PS Chabbewal Distt Hoshiarpur and they suffered confession statement that on 07.06.2023, accused-Ajay Kumar @ Lucky son of Lal Singh reached there on motor cycle of Ramandeep Singh son of Late Jaswant Singh after having been broken and removed the number plats of the said motor cycle and on this, Manraj Singh son of Ranvir Singh and Jasbir



Singh @ Jassa fired shot at the shop of complainant Sudesh Kumar. Therefore, accused- Ajay Kumar @ Lucky son of Lal Singh and Ramandeep Singh son of Late Jaswant Singh were nominated in the present case vide DDR No.39, dated 15.07.2023 and Jasvir Singh @ Jassa was nominated in the present case vide DDR No.42, dated 22.07.2023. The accused-Ajay Kumar @ Lucky was arrested in FIR No.136, dated 24.11.2023, U/s 21/29/61/85 of NDPS Act and section 25/54/59 of Arms Act at P.S. Chabbewal, District Hoshiarpur and he was joined in the investigation in the present case and he was arrested in the present case on 23.08.2023 after questioning.”

6. 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.

7. However, the petitioner is not the main accused, and has been misled by the co-accused. 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 instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

8. 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 (CrI.) 458; and *Aparna Bhat v. The State of*



Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.

9. 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.”

10. **Petition allowed** in terms mentioned above. Interim order dated 29.04.2024 is hereby made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.07.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.