

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22621-2024
Reserved on: 16.10.2024
Pronounced on: 25.10.2024

Gurdeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S.Rangpuri, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Jasbir Singh Mohri, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
27	10.03.2024	Macchiwara, District Ludhiana (Police District Khanna)	307/323/324/148/149 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. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“(i) That on 09.03.2024, wife of his cousin Mangal Singh namely Jasveer Kaur consumed wrong medicine and was admitted at Medicity hospital, Machhiwara. At 7:30 PM, when he was present at said hospital to know about well being of Jasveer Kaur, at that time, father-in-law of Mangal Singh namely Gurdeep Singh (present petitioner) armed with kirpan, brother-in-law Gurpreet Singh armed with small kirpan, mother-in-law Kuldeep Kaur, maternal uncle Manjit Singh and Zora Singh empty handed came at the hospital. Gurpreet Singh gave the blow of small kirpan on the right side of the chest of Sukhchain Singh. Gurpreet Singh gave another blow of kirpan on Gulshan Singh on his right buttock. Gurdeep Singh gave blow of kirpan to Gulshan Singh on his stomach and right thigh. Gurpreet Singh gave blow of kirpan on left elbow of complainant. Kuldeep Kaur caught hold Gulshan

Singh from his hairs and Ranjit Singh and Zora Singh gave fist blows to them. They raised hue and cry on which people gathered at the spot and police also came at the spot. The people at the spot caught hold of the petitioner Gurdeep Singh, Gurpreet Singh and Manjit Singh at the spot and handed them over to the police. The motive behind the attack as stated by the complainant is that the accused alleged that Mangal Singh and his family forcibly gave poison to Jasveer Kaur. Accused Manjit Singh, Gurpreet Singh and the petitioner Gurdeep Singh were arrested on the spot.
(ii) *That as per MLR of Gulshan Singh he suffered 3 injuries, as per MLR of Sukhchain Singh, he suffered 1 sharp injury and complainant Hardeep Singh suffered 2 injuries. Hence, on the basis of the statement of the complainant and as per MLRs of injuries, the present FIR was registered against petitioner Gurdeep Singh, Gurpreet Singh, Kuldeep Kaur, Manjeet Singh and Zora Singh.”*

4. The petitioner's counsel refers to the bail petition and explicitly to paras 4 & 5, which read as follows:

“4. That the brief background of the case is that the accused and complainant parties are related to each other as the daughter ie. Jasvir Kaur of the accused family is married with Mangal Singh son of Gulshan Singh of complainant family. A matrimonial dispute arose between the parties because of the ill- treatment to Jasvir Kaur in her in laws family. The petitioner being father of Jasvir Kaur has been implicated by the complainant side only to put pressure on Jasvir Kaur not to proceed against them for harassment and ill treatment given to Jasvir Kaur by the in- law's family. The petitioner has not committed any offence.
5. That petitioner did not attack any one, he is falsely implicated by complainant side. As per the FIR petitioner was alleged to be carrying sword weapon and inflicted 2 injuries on the person of victim Gulshan Singh with sword whereas MLR of Gulshan Singh shows that weapon used for all injuries was blunt, therefore FIR version does not match with the MLR as far kind of weapon used is concerned.”

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. It would be appropriate to refer to the following portions of the status report, which read as follows:

“7. That the role of the petitioner, Gurdeep Singh, is specifically established as being a part of an unlawful assembly that engaged in an assault upon the complainant and others with an intention to cause death. The petitioner is specifically attributed with inflicting a blow with a kirpan on the stomach and right thigh of Gulshan Singh. The recovery of the kirpan. from the petitioner at the time of his arrest further corroborates the complainant's account and establishes a direct connection between the petitioner and the injuries caused. The gravity of the offence, the specific role of the petitioner, and the supporting

evidence negating any grounds for bail on parity. Hence, the petitioner committed the offence of serious nature, therefore, is not entitled for regular bail."

8. There is sufficient prima facie evidence, but the petitioner was highly agitated, and the possibility of his attacking under grave and sudden provocation cannot be ruled out.

9. 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. However, per paragraph 14 of the bail petition, the petitioner has been in custody since 10.03.2024. Per the custody certificate dated 15.10.2024, the petitioner's total custody in this FIR is 07 months and 03 days. 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.

10. 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.

11. 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.

12. 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)	

13. This order is subject to the petitioner's complying with the following terms.

14. 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.

15. 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 (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

16. 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.

17. 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."

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

25.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.