

CRM-M-23983-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23983-2024
Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Jagtar Singh @ Tari ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rohit Kumar, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0058	07.08.2021	Balianwali, District Bathinda, Punjab	379B, 324 & 34 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. As per custody certificate dated 08.08.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	36	18.03.2013	382, 323, 457, 380, 411, 34 IPC	Nathana
2	222	29.09.2019	379/411 IPC	Nathana
3	80	26.08.2021	392, 411 IPC and 25/54/59 of Arms Act	Jhunir
4	96	24.07.2022	15-B/61/85 of NDPS Act	City Rampura
5	32	19.02.2019	61/78/1/14 of Excise Act	Nathana
6	176	08.11.2022	379/411 IPC	Nathana
7	184	31.08.2023	307, 379B, 323, 413, 34 IPC	City Rampura

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

“That in compliance with order dated 15.07.2024, passed by the Hon'ble Court, the answering deponent submits that on the basis of statement of complainant Palwinder Singh question No.58 FIR section 379-B, 324 &34 the FIR in dated 07.08.2021 IPC, Balianwali, District Bathinda under

CRM-M-23983-2024

Police Station was registered against unknown persons. Subsequently on the basis of supplementary statement of the complainant, accused-petitioner, Jaskaran Singh s/o Jaswant Singh, Harpreet Singh co-accused s/o Mander Singh and Harpreet Singh s/o Labh Singh were nominated, vide DDR No.15 dated 16.09.2024.

Precise facts of the case are that complainant and Manjot Singh were doing job in a Finance Company i.e. Bharat Finance Company, Mehraj. The said finance company used to finance group loans to the needy women and on 05.08.2021 at about 7.30 am the complainant and his companion Manjot Singh were on and his visits to village in connection with collection of the installment on their motorcycle no. PB-03-H-6272 Make Deluxe, Black. The said motorcycle was being driven by Manjot Singh. At about 3.30 pm. when complainant and his companion reached in the area of Village-Bhundar, a motorcycle hit from the back side to their motorcycle. Meanwhile one more motorcycle came there and the rider of the said motorcycle snatched the kit using a sharp edge weapon, which was kept by the complainant at that time. In the said kit there was Rs.1,50,000/- of loan EMI collection and important documents. The complainant tried to give a brick blow to the accused persons in retaliation, but accused hit on the right hand of the complainant with sharp weapons. The complainant and his companions raised alarm. The accused threatened the complainant and his companion showing pistol and fled away from the spot. Thereafter complainant was admitted to Max Hospital.”

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 paragraph 8 of the bail petition, the petitioner has been in custody since 14-01-2024. As per the custody certificate dated 08.08.2024, the petitioner's total custody in this FIR is 06 months & 24 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.

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

CRM-M-23983-2024

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

CRM-M-23983-2024

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

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.