

48. IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.24447-2024
Reserved on: 11.07.2024
Pronounced on: 30.07.2024

Kapil ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
320	28.06.2019	Barwala, District Hisar	302, 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 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts of the case are being taken from reply dated 22.05.2024 and the relevant paragraph(s) of the same reads as follows:

“ 2. That the brief facts of the case are that the present FIR has been registered on the statement of Manjeet son of Sat Pal resident of village Badhawar alleging therein that on dated 27.6.2019 at about 7.00 PM his younger brother Naveen and his friend Vikram has been called by Bharat (co-accused) son of Pardeep to talk on some important points in "Bharat's Buffalo Dairy" on which Naveen and Vikram went over there and after half an hour the complainant got information that Bharat (co-accused) is beating to Naveen and Vikram along with his companions on which he passed on the information to Mangat Ram Tau of Vikram on which they both reached in the diary of Bharat (co-accused) where they saw Bharat, Satender, Pardeep and Vikram Vicky of village Koth along with 8/10 companions who were duly armed with lathes and dandas, Bharat and Vikey Vikram were the beatings with dandas in their hands on the hands and feet of Naveen, his brother and Stender and Pardeep were giving danda blows on the hand, feet and body of Vikram. The other companions were also given lathe and danda below on the body of the Vikram and they left Naveen and Vikram half dead and ran away from there on the motor-cycle after putting them on the road out

of the gate of the dairy. After arranging the vehicle the complainant brought his brother Naveen to Green Tree Hospital Barwala. The doctor of Green Tree Hospital without examining his brother asked him to take him to civil Hospital, Hisar. While he was bringing his brother to Civil Hospital Hisar in an ambulance, he expired while in way to Hisar. Mangat Ram took Vikram to Civil Hospital Barwala where he was referred to MAMC, Agroha and Vikram expired in MAMC Agroha while under treatment. Upon which case FIR No. 320 dated 28.06.2019 under sections 302, 148, 149 IPC was registered at Police Station Barwala, District Hisar.

*That after registration of the FIR, a fair and impartial investigation was carried out by the local police and during course of investigation PMR of deceased Naveen was obtained in which 11 multiple injuries were found on the person of deceased and the cause of death in this case is due to hemorrhagic shock due to multiple injuries sustained. That on dated 27.06.2019, victim Vikram was also expired due to injuries caused by the petitioner and other co-accused and his Post mortem was conducted at MAMC Agroha, The PMR of deceased Vikram was also obtained. As per PMR there were total 9 multiple injuries on the body of deceased Vikram. The cause of death is that "all the injuries are ant mortem in origin cause due to blunt force and cause of death in this case is hemorrhage shock as injuries sustained to this body which are sufficient to cause death in ordinary course of nature". Copies of the PMR report of deceased Naveen and Vikram are annexed as **Annexure R-1** and **R-2**.*

*5. That during the course of investigation petitioner/accused Kapil, co-accused Mohit. Sandeep, Aman, Sachin, Kashmir and one other person were also found involved in committing the murder of Naveen and Vikram and their names have come in the supplementary statement of complainant Manjeet and statement of Mangat Ram who is the uncle of the deceased Vikram and also in the disclosure statement made by co-accused Bharat. The copies of supplementary statement of complainant Manjeet and statement of Mangat Ram are annexed as **Annexure R-4** to **R-5** respectively."*

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. Counsel for the petitioner prays for grant of bail on the ground of parity with co-accused namely, Mohit.

5. The State opposes bail.

6. One similarly placed co-accused, Mohit, was granted bail by a co-ordinate bench of this Court in CRM-M-5492-2024 on 22-04-2024. The State did not claim to challenge the said order. It would be appropriate to refer to paragraph 4 of the said order, which reads as follows:

"[4] In the present case, investigation stands concluded with the filing of challan followed by framing of charges and the petitioner is behind the bars for the past almost more than 3 years, besides it, though the recovery of danda was effected from the petitioner, however, as per the FSL report, as regards blood stains found thereupon, no conclusive opinion was rendered by the experts. In addition, the statements made by the petitioner in terms of Section 27 of Indian Evidence Act 1872, as regards the recovery of danda from the dairy i.e. a place open to one and all was yet to test the scrutiny of trial besides the other evidence collected by the prosecution. As regards, the involvement of the petitioner in one

more case under the provision of IPC, admittedly, he is already on bail in the same. Considering the aforesaid facts and circumstances, this Court does not find justification to extend his incarceration any further”

7. Resultantly, the petitioner is also entitled to bail on the grounds of parity. Primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability of further pre-trial incarceration at this stage, subject to the compliance of the terms and conditions mentioned in this order.

8. 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.

9. 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 Ilqa 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.

10. 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)	

11. This order is subject to the petitioner’s complying with the following terms. 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 drug detection squad, 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, 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 restrain the accused from influencing the witnesses and repeating the offence.

13. 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.

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

30.07.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.