

CRM-M-24735-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24735-2024
Reserved on: 03.09.2024
Pronounced on: 11.09.2024

Rajbir Singh alias Ram ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Malkiat S. Hundal, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
228	26.08.2023	Jandiala, Amritsar Rural	302/34/120-B IPC and 25/27/54/59 of Arms Act

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 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the brief and relevant facts of the case are that the aforesaid FIR No. 228 dated 26.08.2023 was registered on the basis of the statement of Balwinder Singh son of Sarup Singh, resident of Nathuana Gate, Jandiaia Guru, Amritsar, alleging therein that on 26.08.2023, at about 08/08:30 PM, he was returning home and saw his son Ravi sitting in the shop of Sonu Barber but on reaching home, he found the door of his house locked and thereafter, he went to the shop of Sonu barber to collect the keys of the house from his son Ravi. He further alleged that when he called his son Ravi to give him the keys, two other unidentified persons, who were already sitting in the shop started firing shots from their firearms on his son and then fled away from the spot on their respective motorcycles. He further alleged that he and his co-villager Bikka rushed Ravi in injured condition to the Hospital at Manawala for treatment but the doctors declared his son brought dead. The detailed facts mentioned by Balwinder Singh in the aforesaid statement have been reproduced in the true translation of the FIR attached with the petition as Annexure P-1, which may kindly be read as a part of present paragraph as same are not

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repeated here for the sake of brevity.”

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

“5. That during the course of investigation, the complainant Balwinder Singh recorded his supplementary statement dated 27.08.2023 before the investigating officer, alleging therein that two unidentified persons, who had fired shots upon his son were accompanied by two other unidentified persons, who were sitting on the motorcycles with the ignition on and after firing of shots upon his son, all of the aforesaid four unidentified persons had fled away from the spot on two motorcycles.

6. That on 29.08.2023, the investigating officer received a secret information that the petitioner was seen roaming around at the place of occurrence and if he was arrested, the whereabouts of the unidentified persons, who had committed murder of the deceased Ravi could be identified. On the basis of the aforesaid information, the petitioner was nominated as co-accused in the case vide G.D No. 10 dated 29.08.2023 and arrested by the investigation officer during the course of investigation.

7. That during his custodial interrogation, the petitioner suffered a disclosure statement dated 30.08.2023 disclosing therein that he did not know the names of the accused persons, who had committed murder of the deceased Ravi but knew them by their faces because he used to purchase heroin from them.

8. That during the investigation, the petitioner suffered another disclosure statement dated 03.09.2023, disclosing therein that he had done reeve of deceased Ravi on asking of his relative Bobby Bath, presently residing at Italy and used to inform him about the movement of Ravi through Sunil, who was also a relative of Bobby Bath through Whatsapp Call. He further disclosed that the deceased Ravi was involved in the smuggling heroin and both Bobby and Sunil were having links with big smugglers and they (Bobby and Sunil) were having an enmity with Ravi as he (Ravi) did not pay money to Bobby after purchasing heroin from him.

9. That on the basis of the aforesaid disclosure statement. Sunil was nominated as co-accused in the present case vide G.D No. 26 dated 22.09.2023.

10. That during the investigation, the co-accused Samuel alias Sam was arrested in another case FIR No. 220 dated 19.08.2023 registered at Police Station Jandiala, Amritsar (Rural) and during his custodial interrogation in that case, he suffered a disclosure statement dated 12.11.2023, disclosing therein that on 26.08.2023, he along with co-accused Amri (Amar Singh alias Amri) and two other persons had murdered Ravi on asking of Harpreet Singh alias Happy Jatt. He further disclosed that on 26.08.2023, he was present at the house of Gopi and Amri (Amar Singh alias Amri) came there and took him to village Gunnawal and Amri made a virtual call to Happy Jatt, who asked them to

reach Jandiala. He further disclosed that when he and Amri reached Jandiala, an another unidentified person came on an Activa and gave them a signal about the presence of Ravi in Saloon shop and thereafter, Amri and an another person, who was not known to him, went inside the Saloon and murdered Ravi by firing shots. He further disclosed Rahul, Gagandeep Singh alias Gaggi and Sahil had done the recee of the deceased Ravi.

11. That no solid evidence was found relating to the involvement/ participation of the co-accused Bobby Bath and Sunil in the murder of the deceased Ravi during the course of investigation. Hence, they were declared innocent in the case.”

7. Although there is sufficient prima facie evidence of the petitioner’s involvement but admittedly, he neither fired nor was accompanying the assailants. The allegations against him are of recognizance, which he allegedly did because he was a drug addict. Thus, the evidence against him is on lower footings than the others. Given the above, coupled with the prima facie 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.

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 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.

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. 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.

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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

11.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.