

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25110-2024
Reserved on: 10.09.2024
Pronounced on: 27.09.2024

Sandeep Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Navdeep Singh, Advocate and
Mr. Randeep S. Dhull, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
66	26.02.2024	Agroha, District Hisar	323, 365, 379-B, 386, 389, 506, 120-B 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 9 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the translation of FIR reproduced in the petition, which reads as follows:

“...I am resident of the aforementioned address and I work as an account clerk in Sadalpur Gaushala Yesterday on dated 25.02.2024 at around 12 o'clock in the morning I received phone call on the number provided to me by the Gaushala 9896543516 from 9991468952, on which a woman was speaking and upon asking she disclosed that I am Kavita from Durjanpur and I want to meet you. Then I asked her where do you want to meet, then she said I will meet you at Chickenwas. Then I went to my home with my motorcycle No. HR-20AH-3284 make Splendor and after taking helmet from my house went below the Chickenwas flyover, where that lady who was calling herself Kavita met with me and both of us went to Tandoori Hotel, near Toll Plaza, Landhari and after sitting there for a while at around 2:30 P.M. booked room No.210 and both of us went inside the

room, where I had intercourse with Kavita with her consent. After that I came outside the hotel at 3:20 P.M. I was going to procure my motorcycle, then three boys alighted from the car Thar HR-25H-0003 that was already standing there and forcibly put me inside the car and had Kavita sit inside the car started towards Hisar after turning around a little before the Toll. They started beating me in the car. They took out the 15-16 thousand rupees inside my pocket and the mobile phone provided by the Gaushala make KeyPad and my self-owned phone make OPPO56 in which SIM No. 9700096429 was installed and second SUM No.9728419219 was installed and they kept on beating me inside the car and kept on saying get 15 lakh rupees or otherwise we shall incriminate you in a rape case. I told them my family members do not have 15 lakh rupees, on which they said get 5 lakh rupees. After that I gave them the mobile number of my brother Kimti Lal. After that they called my brother Kimti Lal on his No. 9992590143 from my phone and had me talk to him and talked to them about 5 lakh rupees. After that they kept on driving the car here and there and kept on beating me. In between they kept on making phone calls. At around 8:30 to 9 in the intervening hours, they made me alight the vehicle at Patel Chowk, Hansi and handed me the small keypad phone and said that when you arrange the money, contact your secondary mobile number and get the money and take back your second mobile phone, PAN card and license and all four absconded from that place in their vehicle. I have been unlawfully kidnapped by Kavita and her accompanying boys of which they were calling each other Naveen, Vicky and Pradeep and have threatened to inculcate me in a rape case and have extorted money from me by coercing me on that pretext and have stolen my mobile phone and money and have physically beaten me and have threatened to kill me. Legal action may be taken against them. Now you have arrived, I have had my statement be recorded to you, heard it; it is found to be correct. Sd/- Sunil Attested ASI Ramji Lal, P.S. Agroha, dated 26.02.2024.”

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:

“3. That in compliance of order dated 23.05.2024 the investigating officer obtained the SIM Cards details issued in the name of petitioner/accused by

the Telecom Service Provider and it transpired that the petitioner/accused is having 3 SIM cards issued by the Vodafone Idea which are active at present, and 3 SIM cards issued by the Reliance Jio and the same are also active as on today, whereas no other SIM cards is found to be issued in the name of petitioner/accused by the other Telecom Service Providers. Copy of the report provided by the Telecom Service Providers is appended herewith as Annexure R-1.”

7. 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, as per paragraph 5 of the bail petition, the petitioner has been in custody for three months. As per para 9 of the bail petition, the petitioner has no criminal antecedents. Given the fact that the petitioner is a first offender, the petitioner's role, 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.

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.

12. 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.

13. 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.

14. 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."

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

16. 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.

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

(ANOOP CHITKARA)
JUDGE

27.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.