

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28083-2024
Reserved on: 12.08.2024
Pronounced on: 30.08.2024

Rakesh Kumar ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anuj Tanwar, Advocate
for the petitioner(s).

Mr. Rajat Gautam, Addl. AG, Haryana.

Mr. Prashant Singh Chauhan, Advocate
for respondents No.2 & 3.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
332	23.11.2023	Kosli, District Rewari, Haryana	323, 325, 506, 341, 34 IPC (later on added Section 308 IPC)

1. Seeking cancellation of anticipatory bail granted to respondents No.2 & 3, vide order dated 30.04.2024 passed by the Sessions Judge, Rewari, petitioner has come up before this Court by filing the present petition under Section 482 r/w 439(s) CrPC.
2. I have heard counsel for the parties and gone through the record and its analysis would lead to the following outcome.
3. Petitioner’s counsel seeks cancellation of bail on the grounds that despite considering serious nature of injuries it was not justifiable for the Court to grant him bail and such order is cryptic, perverse and illegal. Another ground for cancellation of bail is that there was threat perception because of the bail similar incident can again happen. Third ground is that petitioner is a senior citizen aged 67 years and his children are living outside and their children are living outside as such there is a massive threat to them from the accused who are habitual offenders. He further submitted that the trial Court had granted the pre-arrest bail on presumption of case of cross version, whereas there was no cross version, as such there is an error.

4. Counsel for the State has drawn attention of this Court towards the application filed by one of the accused Daya Ram Chaudhri dated 05.12.2023. Counsel for the respondents No.2 & 3 submits that there is nothing for the petitioner to fear from them and he undertakes to not to harass or humiliate them in any manner.

5. Given such undertaking and other facts peculiar to this case, this Court is not inclined to interfere in the bail order dated 30.04.2024 passed by the Sessions Judge, Rewari, subject to the compliance to the conditions below mentioned, on which respondents' counsel has no objection.

6. Given the background of allegations against the respondents, it becomes paramount to protect the complainant, witnesses, and 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 respondents No.2 & 3 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 respondents No.2 & 3 shall be entitled to renew and take it back in case of acquittal, 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.

7. Given the nature of the allegations and the other circumstances peculiar to this case, the respondents No.2 & 3 shall not enter the victim's property, workplace, and residence 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 (Cr.) 458; and *Aparna Bhat v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

8. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. 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.

9. Petition disposed of in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.