

20.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.30710 of 2024
Reserved on: 11.07.2024
Pronounced on: 30.07.2024

Gursimran Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:

HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:

Mr. Abhijeet Pratap, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
26	05.04.2024	Division No.3, District Police Commissionerate Ludhiana	379-B(2), 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. In paragraph 11 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 11.07.2024 and the relevant paragraph(s) of the same reads as follows:

“4. That the present FIR has been registered on the statement of Shatrughan Kumar son of Sri Ram Japudas Resident of Chintanpura Police Station Pipra District Motihari State Bihar presently on rent at B- 11192 Fateh Ganj Street No.3 Ludhiana Age about 26 years stated that I am a resident of the said address. Last night around 12.30 AM to 12.50 AM I along with my friends Kundan Kumar son of Umes Das and Kamod Kumar son of Vijay Das R/o Ranjita Ward No.14 Police Station Harsidi District Motihari Station Bihar were going to our residence from Ludhiana Station when we were going from Husiharpuri Chat Bhandar to Mahalla Harbanspura street and we reached street no.2, 2 boys were going in front of us. Seeing us, they turned towards the street on the pretext of changing the way. When we passed a little ahead of them in the side street, both the boys called out to us and asked us where to go. When we said that we are coming to the station, the two boys started pushing us and took



away the mobile phones of all three of us, but my friends, who had come to Ludhiana for the first time, were afraid. But when I resisted the youths, they started attacking me with bricks, during which a brick hit my head and both the attackers ran away with our stolen mobile phones. I called my employer Akash Malhotra, who admitted me to the civil hospital, from where Dr. Sahab discharged me with a bandage. Until now, I along with my employer have been searching for the said attackers, who confirmed to us that the young men who caused injuries and snatched our mobiles are Gursimran Singh son of Amritpal Singh resident of Churi Sadak Bajra Mohalla and Gautam resident of Harbanspura Ludhiana whom I can identify but I am going alongwith my employer Akash Malhotra to police station to give information."

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 opposes bail and has referred to relevant paragraph(s) of the reply which reads as under:

"5. That after registration of the FIR, the present petitioner was arrested on 5.4.2024 and thereafter snatching articles i.e. one mobile phone make VIVO Y 100 colour Brown was recovered from the present petitioner and thereafter remand of the present petitioner for 2 days has been obtained from the concerned court and during the remand, he got effected the recovery of brick which he used for committing crime and thereafter he was send to Central Jail, Ludhiana and still he is in Central Jail, Ludhiana. Thereafter the present petitioner has applied the bail application under section 439 Cr.P.C. for grant of regular bail which was dismissed by the court of Ms. Manila Chugh, ASJ, Ludhiana vide order dated 13.5.2024."

6. Although a perusal of the evidence collected so far points out the petitioner's involvement, however, at this stage, this Court is concerned with bail for which the parameters are entirely different.

7. As per paragraph 6 of the bail petition, the petitioner has been in custody since 05.04.2024. 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 for further pre-trial incarceration at this stage, subject to the compliance of 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 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,



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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 offense.

14. 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."

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

30.07.2024*Sonia Puri*

Whether speaking/reasoned: Yes
Whether reportable: No.