

CRM-M-31038-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31038-2024
Reserved on: 01.08.2024
Pronounced on: 30.08.2024

Gurpreet Bhalla ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
6	16.02.2024	SSOC, District SAS Nagar (Mohali)	384, 506, 120-B IPC and Section 25 & 25(7) of Arms Act (deleted later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. Vide order dated 08.07.2024, the petitioner was granted interim bail/ protection, which continues to date.
3. Facts of the case are being taken from reply dated 22.07.2024, which reads as under:-

“2. That the brief facts of the present case are that on 16.02.2024, ASI Baljit Singh was present in the police station, where he received secret information at about 3.00 PM that Hitesh Kumar son of Prashotam Kumar, resident of House No.279, Sector 15- A, Chandigarh and Gurpratap Singh Mann son of Kashmir Singh, resident of House No.1124, Sector 37-B, Chandigarh are active members of Lawrence Bishnoi gang and they alongwith their other unknown associates are demanding extortion from the prominent people of Punjab by threatening them with arms and ammunition. They are members of the criminal gang. On the basis of the aforesaid secret information, the FIR No 06 Dated 16.02.2024 u/s 384, 506, 120-B of IPC and Sections 25, 25 (7) of Arms Act PS SSOC, SAS Nagar (Mohali) was lodged.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner’s counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the

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petitioner and family.

5. The State's counsel opposes the bail by making reference to role of the petitioner and evidence against him, as mentioned in the reply, which reads as follows:-

"That the role of the petitioner is that on 08-03-2024 accused Hitesh Kumar disclosed during interrogation that Lawrence Bishnoi send him the extortion money through petitioner Gurpreet Singh Bhalla. On the basis of above disclosure petitioner Gurpreet Bhalla was nominated in present case.

5. The evidence against the petitioner: That on 13-03-2024 petitioner Gurpreet Singh Bhalla was arrested in the present case, who disclosed during interrogation that he received Rs 25 lakhs from Khanna on the instruction of one Shaminder Singh @Shammi an active member of Lawrence Bishnoi gang and further gave this amount to Hitesh Kumar at Chandigarh."

6. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

7. Given the background of allegations against the petitioner, 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 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, 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.

8. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner 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,

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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 Bhat v. The State of Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.

9. 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.”

10. **Petition allowed** in terms mentioned above. Interim order dated 08.07.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.