



41. IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.31257 of 2024
Reserved on: 16.07.2024
Pronounced on: 30.07.2024

Nirmal Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Prince Sharma, Advocate (Through VC)
for the petitioner.

Mr. Ashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
453	25.10.2023	Sadar Sirsa, Tehsil & District Sirsa, Haryana	342, 395, 406, 506 IPC and 25 of Arms Act (Sections 201, 397 IPC added 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. In paragraph 14 of the bail application, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	38	13.04.2020	Under Sections 380, 457, IPC	RORI, District Sirsa, Haryana

3. The facts of the case are being taken from reply dated 15.07.2024 and the relevant paragraph(s) of the same reads as follows:

"1. That the brief facts of the case are that case FIR No.453, dated 25.10.2023, under section 342/395/406/506 IPC and 25 Arms Act (sections 201/397 IPC were added during investigation), PS Sadar Sirsa, District Sirsa/Annexure P-2 was registered on the complaint of complainant Kulwant Rai son of Khayali Ram, resident of Madhosinghana, District Sirsa. The relevant extract of FIR, if translated in English read as:

"Sir, it is respectfully submitted that I Kulwant Rai son of Khyali Ram is resident of Madhosinghana and used to do agricultural work. My Mahadev Mahalaxmi HPCL filling station is situated a little ahead of Dhingtania on Sirsa Jamal Road, on which I have employed two salesmen,



Naresh Kumar son of Dharamveer and Naresh son of Prabhu Ram, residents of Nirban. On 23.10.2023, I went home at about 06:00 PM and both the salesmen slept inside the room at the petrol pump at about 10.30 PM, after closing the petrol pump. On the night of 23/24.10.2023, five men, two of them came on a motorcycle and three on foot, came to the petrol pump and by waking up my salesmen sleeping inside the room and got filled about 12 liters of petrol in the motorcycle from salesman Naresh son of Prabhu Ram the motorcycle and then at pistol point threatened to kill and looted away about Rs.23,600/- and the mobile phone of Naresh Kumar son of Dharamveer which had the SIM No.94166-76581 and while leaving, locked the above two salesmen in the bathroom. When I came to the petrol pump at about 8:00 in the morning, the above two salesmen told me the entire incident. I verified with the help of the cameras installed on the pump and the surrounding cameras, which I found to be true, so I have now given a written complaint to you against the unknown persons who have committed robbery. Legal action be taken against unknown persons".

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. He further submits that co-accused have already been granted bail by this Court and referred to order dated 22.05.2024 (Annexure P-4) passed in CRM-M-24844 of 2024; dated 15.05.2024 (Annexure P-5) passed in CRM-M-21992 of 2024 and order dated 31.05.2024 (Annexure P-6) passed in CRM-M No.26880 of 2024 by this Court.

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

3. That during investigation on 25.10.2023, statement of eye witnesses A Naresh Kumar son Dharamveer and Naresh son of Parbhu Ram, residents of Nirban were recorded under section 161 Cr.P.C. In their respective statements both these eye witnesses have specifically stated that the persons who robbed them are (1) Rajesh son of Darshan Singh, resident of Bajekan, (2) Sandeep @ Rinku son of Krishan Lal, resident of Bajekan, (3) Nirmal Singh Nimma son of Gurmeet Singh, resident of Kurangawali (present petitioner/accused), (4) Yadwinder son of Baldev Singh, resident of Panihari and (5) Gurmeet Singh and they can identify the abovesaid accused, if brought before them. Copy of statement of Naresh son of Dharamveer, resident of Nirban recorded under section 161 Cr.P.C. is annexed herewith as Annexure R-1.

4. That on 26.10.2023, complainant Kulwant Rai produced one Pen drive Containing CCTV footage of occurrence alongwith certificate under section 65-B Indian Evidence Act, which was taken in possession. In the CCTV footage, accused (1) Rajesh son of Darshan Singh, resident of Bajekan, (2) Sandeep @ Rinku son of Krishan Lal, resident of Bajekan, (3)



Nirmal Singh @ Nimma son of Gurmeet Singh (present petitioner/accused), resident of Kurangawali, (4) Yadwinder son of Baldev Singh, resident of Panihari and (5) Gurmeet Singh son of Balbir Singh, resident of Panihari are seen involved in the commission of crime.

5. That on 10.12.2023, accused (1) Rajesh son of Darshan Singh, resident of Bajekan, (2) Sandeep @ Rinku son of Krishan Lal, resident of Bajekan, (3) Nirmal Singh @ Nimma son of Gurmeet Singh, resident of Kurangawali (present petitioner/accused), (4) Yadwinder son of Baldev Singh, resident of Panihari and (5) Gurmeet Singh were joined in the investigation of the case and the complainant and eye-witnesses Naresh Kumar son of Prabhu Ram and Naresh Kumar son of Dharamveer have identified the accused persons, memo of identification dated 10.12.2023 was prepared accordingly and the petitioner/accused and his co-accused persons were arrested in the case, after having sufficient evidence for their arrest. During investigation on 11.12.2023 and 12.12.2023, all the abovesaid accused persons suffered their respective disclosure statements admitting their respective involvement alongwith their co-accused and got demarcated the place of occurrence. Petitioner/accused Nimma got recovered Rs. 1000/- and one motorcycle CT-100 without number plate, having Engine No.RFXPLE27608, Chasis No.M02837AX2LPE73993, colour blue, used in the commission of crime and the petitioner/accused had given pistol used in commission of crime to accused Anmol, resident of Bhavdin, in accordance with his disclosure statement. Accused Gurmeet Singh got recovered Rs.810/- out of his share Rs.1500/-, robbed in the commission of crime, in accordance with his disclosure statement. Accused Yadwinder got recovered Rs.740/- out of his share Rs. 1500/-, robbed in the commission of crime, in accordance with his disclosure statement. Accused Yadwinder also got demarcated the place where he has thrown the mobile snatched from the salesmen at the time of commission of crime. Co-accused of petitioner/accused also got demarcated the place from where they have broken the dandas from the neem (Bakain) trees, used in the commission of crime and the place where they have thrown the dandas after commission of crime. Copy of re-disclosure statement of petitioner/accused Nirmal Singh is annexed herewith as Annexure R-2.

6. That on 13.12.2023, accused Rajesh got recovered Rs.700/- out of his share Rs.1500/-, robbed in the commission of crime and accused Sandeep @ Rinku got recovered Rs.800/- out of his share Rs.1500/-, robbed in the commission of crime, in accordance with their respective disclosure statements. During investigation, accused Anmol, resident of Bhavdin was also found involved in the commission of crime. Earnest efforts were made to arrest accused Anmol, resident of Bhavdin but he is evading the arrest.

9. That during investigation, petitioner/accused was found involved in the commission of crime. Petitioner/accused was duly identified by complainant and eye witnesses. During investigation petitioner/accused



suffered disclosure statement and got recovered Rs.1000/-robbed in the commission of crime and one motorcycle CT-100 without number plate, having Engine No.RFXPLE27608, Chasis No.M02837AX2LPE73993, colour blue, used in the commission of crime and also got demarcated the place of occurrence. The involvement and active participation of petitioner/accused in the commission of crime has been fully established on the case file, as such he was sent upto face the trial alongwith his co-accused in the Court of competent jurisdiction by submission of challan/final report.

6. As per custody certificate dated 15.07.2024, the petitioner has been in custody since 13.12.2023 and the petitioner’s total custody in this FIR is 07 months and 03 days. Given the penal provisions invoked viz-a-viz pre-trial custody, grounds of parity, coupled with the primafacie 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.

7. 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.

8. 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 in case of 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.

9. 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)	

10. 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.

11. 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.

12. 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.

13. 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."

14. Any observation made hereinabove is neither an expression of opinion on the



case's merits nor shall the trial Court advert to these comments.

15. 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.

16. **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.