

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31540-2024
Reserved on: 16.10.2024
Pronounced on: 22.10.2024

Buntly Sarpanch @ Pardhan @ Banti Joon ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Ghangas, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
367	12.10.2021	Asauda, District Jhajjar	302/34/120-B IPC and Sections 25 and 27 of the Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. Per paragraph 21 of the status report filed by the State, the accused has the following criminal antecedents:

Sr. No	FIR No.	Dated/year	Offences	Police Station
1	172	24.04.2022	120-B/186/307/34/353/511/216 IPC and Sections 25, (1-B)(A)/54/59 of the Arms Act	City Bahadurgarh
2	286	2021	186/353/307/332/420 IPC and Sections 25/54/59 of the Arms Act	Sadar Bahadurgarh
3	213	2019	186/353/307/332/420/411/412 IPC and Section 25 of the Arms Act	Kharkhoda

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“4. That the present FIR was registered on the complaint of Pardeep son of Ram Kanwar on the allegations that he is resident of village Daboda Khurd. He was having a sweet shop at main stand of the village. The complainant alleged that Inderjeet

Shaukad aged about 33/34 years was his younger brother. He (Inderjeet@ Shaukad) was residing at Bakarwara (Delhi) along with his family. He was dealing in properties. He used to come to the villager after a gap of a month or 20 days. On 10.10.2021 at about 6.00 p.m., Inderjeet @ Shaukad came to Bahadurgarh through Metro train. He took his Jeep Compass no. BR- 01DJ-1668 from the parking of Metro train at Bahadurgarh and joined the company of Amit son of Seth Singh, resident of Arya Nagar, Bahadurgarh. During the intervening night of 10/11.10.2021, Amit and Inderjeet slept together in the aforesaid vehicle of Inderjeet. On 11.10.2021, during morning hours, Inderjeet, Amit and Ravi visited several places in village Daboda Khurd in the aforesaid vehicle of Inderjeet @ Shaukad and consumed liquor on intervals. On 11.10.2021, Banti son of Hawa Singh Bhanja and Virender Mendhak also joined the company of Inderjeet. At about 7.00 pm. Rakesh @ Banti Banja alighted from the vehicle in village Daboda and Virender @ Mendhak had left the company of Inderjeet during day time. In the evening Amit. Ravi, resident of Arya Nagar and Inderjeet @ Shaukad went to Ashirwad hotel at Rohtak Sampla Road in the aforesaid vehicle of Inderjeet, which was being driven by Amit. Ravi was sitting on the front seat by the side of driver. On the way to Ashirwad Hotel, all the three were consuming the liquor. At about 8.30 p.m. they reached in the parking of Ashirwad Hotel. Ravi and Amit got down from the vehicle and went to the main counter of the hotel. When they were talking about booking of a room. In the meantime, three young boys armed with weapons came on a motor-cycle. Those boys stopped the motor-cycle at some distance from the vehicle of Inderjeet, opened its driver side rear window and fired several shots on Inderjeet. After firing 5-7 shots at Inderjeet, those boys fled towards Rohtak-Sampla on their motor-cycle. On hearing the noise of firing. Amit and Ravi rushed to the vehicle of Inderjeet and found Inderjeet in a pool of blood. Amit and Ravi shifted Inderjeet to Civil Hospital. Bahadurgarh, where the doctor declared him dead.”

4. The petitioner's counsel submits that the petitioner was arrested on the basis of a disclosure statement of a co-accused Virender, who has been acquitted in the trial vide judgment dated 21-07-2023, Annexure P-2.

5. 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.

6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

“9. That during the course of investigation CCTV footage of the place of occurrence was obtained and converted in to a PEN Drive and taken in to possession vide recovery memo. That as per the CCTV footage 3 persons (co-accused Himanshu @ Gonga, Sanjay R/o Deshalpur and Sonu @ Risky, one unknown person namely Rajasthani phelwan) came on the pulsar motorcycle at place of occurrence and fired upon deceased Inderjeet @

Shaukad.

11. That during the course of investigation, on 14.11.2021 co- accused Virender Kala Mendhak was arrested in the present case and his disclosure statement was recorded, wherein he disclosed that present petitioner conspired to commit murder of Inderjeet Shaukad and on the basis of disclosure statement of co-accused Virender Mendhak his mobile phone was recovered and the same was taken in to possession vide recovery memo and section 120B of IPC was added to the present FIR. Copy of disclosure statement of co- accused Virender Kala Mendhak is enclosed as Annexure R-2.

14. That during the course of investigation on 26-06-2023, presence of the present petitioner was secured through production warrant as he was already confined in another case FIR No. 172 dated 22-04-2022 under section 186, 353, 307, 120-B, 511, 34, 216 IPC & 25, 54, 59 Arms Act, PS Sadar Bahadurgarh and had also confessed about the present offence and he was arrested in the present case and his disclosure statement was recorded wherein he disclosed that one country made pistol used in the offence was handed over by him to Rakesh @ Tota son of Phool Singh resident of village Dabodha. Copy of disclosure statement of present petitioner is enclosed as Annexure R-3.”

8. The petitioner was not noticed in CCTV because even the name of the unknown person was Rajasthani Pehelwan, and such a nickname is not given to the petitioner anywhere in the reply. The petitioner was arraigned based on the statement of co-accused Virender, who has been acquitted in the trial vide judgment dated 21-07-2023, Annexure P-2.

9. 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. Given the penal provisions invoked viz-a-viz the quality of evidence, acquittal of Vijender who had named the petitioner, 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.

10. 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.

11. 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.

12. 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)	

13. This order is subject to the petitioner’s complying with the following terms.

14. 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.

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

22.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.