

CRM-M-32408-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32408-2024
Reserved on: 09.09.2024
Pronounced on: 27.09.2024

Gaurav Narendra ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Imraan Farooqi, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
56	28.02.2024	City Kharar, District SAS Nagar, Mohali	324, 379-B, 307, 506, 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 8 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“4. That the present FIR has been lodged on the basis of statement of complainant Sikander Singh. It has been alleged that on 27.02.2024 he was coming back from his duty to his quarter at about 9.30 PM. In the meanwhile, two persons came on the motorcycle and they snatched the mobile phone of the complainant. One person was apprehended by the complainant and manhandled with him but with the intention to kill the complainant accused hit the knife in left side of flank of complainant and thereafter, the complainant fell on the ground. The blood was oozing out from the same. The complainant succeed to note down the number of the motorcycle as CH-01- CP 3466. Thereafter, the complainant raised hue and cry and his two friends came there and rescued him from the clutches of the accused. Later on the complainant was rushed to the GMCH, Sector 32 Chandigarh where he was medically examined by the doctors.

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Accordingly, the offence under Sections 324, 379-B, 307, 506 and 34 of IPC is made out. On these premise the FIR was recorded against two 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.

5. The State’s counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“ROLE/ALLEGATIONS AGAINST THE PETITIONER

4. That as per the contents of the FIR and the investigation conducted by the investigation officer the petitioner was one of the assailants on the alleged date of incident. The petitioner along with one Satnam Singh resident of Chandigarh attacked the complainant Sikander with knife and snatched his mobile and ran away from the spot while leaving their motorcycle at the place of incident.

EVIDENCE AGAINST THE PETITIONER

5. That during investigation the following evidence was collected against the accused;

a) That the Motorcycle used at the time of crime belongs to the petitioner which was recovered from the spot which is evident that the petitioner was actively involved in the crime.

(b) The eye witness Manoj identified the accused person along with Satnam Singh who stabbed Knife upon the complainant.

(c) The Knife used at the time of crime was recovered from the pocket of the petitioner.

(d) The mobile phone snatched from the complaint was recovered from the pocket of the co-accused Satnam Singh, when both the accused were trying to escape from arrest.

(e) The petitioner made an extra judicial confession and admitted that on 27.02.2024 both of them were on Motor cycle and when we were on run after snatching the mobile phone from the complainant then a scuffle took place and he stabbed the knife into the stomach of the complainant and thereafter they succeeded to run away from the spot.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged

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crime. However, per the custody certificate dated 01-09-2024, the petitioner’s total custody in this FIR is 6 months and 2 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie 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.

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 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.

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. 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 (CrI.) 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

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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.

14. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense. 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

27.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.