

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on: 12.11.2024
Pronounced on: 29.11.2024

1. CRM-M-33753 of 2024

Ajay Singh ...Petitioner

Versus

State of Punjab ...Respondent

2. CRM-M-41877 of 2024

Rajan Singh @ Raja ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sukhbir Maandi, Advocate,
for the petitioner(s).

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

Mr. Gobind Singh Randhawa, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
275	27.06.2023	Goindwal Sahib, District Tarn Taran	307, 452, 323, 148, 149 IPC (201 IPC and 27, 54 59 of Arms Act added later on) and 25 of Arms Act, 1959

1. The petitioner(s) apprehending arrest in the FIR captioned above has come up before this Court under Section 438, Cr.P.c., 1973.
2. In paragraph 14 of the bail petition, the accused-Ajay Singh declares that he has no criminal antecedents. However, as per para 17 of the bail application, accused-Rajan Singh is involved in following cases:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	250	30.09.2021	Under sections 307, 323, 324, 341, 336, 148, 149 IPC and 25 of Arms	City Tarn Taran
2.	36	07.03.2022	Under sections 336, 379(B)(2) IPC and 25, 27 of Arms Act	City Tarn Taran
3.	46	11.03.2022	Under sections 379B(2), 34 IPC and 25 of Arms Act,	City Patti, District Tarn Taran
4.	117	26.04.2023	Under sections 307, 365, 452, 379-B2, 506, 148, 149 IPC and 25, 27 of Arms Act	B. Division
5.	142	17.07.2022	Under sections 452, 307, 506, 148, 149 IPC and 25, 27, 54, 59 Arms Act	Sadar Tarn Taran
6.	173	07.09.2022	Under sections 336, 160, 148, 149, 34 IPC and 25, 27, 54, 59 of Arms Act	Sadar Tarn Taran
7.	218	14.11.2022	Under sections 399, 402 IPC and 25, 54, 59 of Arms Act	Sadar Tarn Taran

3. Both the petitions are related to one FIR, for brevity facts are taken from CRM-M-33753-2024. However, the facts and allegations are being taken from the reply dated 2-9-2024, filed by the State, which reads as follows:

“3. That it is most respectfully submitted that the brief facts pertaining to the present case are that initially the present case bearing FIR No. 275 dated 27.06.2023 under section 307,452,323,148,149 IPC and section 25,27,54,59 Arms Act, (section 201 IPC added later on) Police Station Goindwal Sahib, District Tarn Taran was registered against the petitioner and others on the basis of statement Sukhdev Singh son of Ajit Singh, resident of Neem Wali Ghati, Shri Goindwal Sahib. As per the allegations, on 27.06.2023, at about 05:00 PM, while he was taking tea in his house, wife of his brother entered into the house and on seeing the entire family sitting in the court yard abruptly returned back and after about five minutes Khacho son of Dilbag Singh armed with pistol, Vicky, Lovepreet Singh @ Pitch son of Lakha Singh armed with dangs, Labhu resident of village Palasaur armed with datar, Ajay i.e. petitioner armed with datar, Raja armed with pistol, Sarabjit Kaur @ Chibbo empty handed entered the house by breaking open the main door alongwith motorcycle. Bhuccho and Raja fired gunshots of pistols in order to kill the complainant indiscriminately and the complainant in order to save himself turned towards backside and one of the bullet hit on the left arm of the complainant. Thereafter, Vicky gave dang blow upon the son of the complainant on his left arm. On listening to the gun shots people started gathering and thereafter all the accused fled away from the place of occurrence alongwith their respective weapons whereas the motorcycle in hurry was left in the house of the complainant. His injured son rushed to Civil Hospital, Khadur Sahib for treatment.”

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(s) 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 dated 2-9-2024, which read as follows:

"ROLE OF THE PETITIONER

4. That as far as role of the petitioner is concerned, it is submitted that he was member of unlawful assembly. The petitioner and co-accused armed with deadly weapons forcibly and illegally trespassed in the house of the complainant by breaking open the main door in the broad day light and fired gun shots indiscriminately in order to kill the complainant and one bullet hit on his left elbow. Even, empty cartridges were also recovered from the place of occurrence.

EVIDENCE AGAINST THE PETITIONER

5. That it is submitted that as per the statement of the complainant, the petitioner was also present at the spot and was armed with data. The petitioner and co-accused Khaccho and Raja fired gunshots with their pistols in order to kill the complainant."

7. It would also be appropriate to refer to the following portions of the reply dated 21-10-2024, which read as follows:

"3. That on the receipt of order dated 10.09.2024 passed by this Hon'ble Court, the statement of the complainant namely Sukhdev Singh has been recorded by the investigating officer in which he got recorded that he has got registered the above said case against the petitioner as well as co-accused and now, with the intervention of the respectable of the locality, the compromise has been effected between him and accused persons and he as well as accused persons have close relationship with each other and he does not want to take any action against the accused persons involved in the present case and he further stated that he is having no objection if the present case is quashed or if the petitioner or any accused will be enlarged on bail in the present case and in this regard, the complainant Sukhdev Singh also produced his notarized affidavit dated 20.02.2024 before the investigating officer. The true copy of affidavit dated 20.02.2024 is annexed herewith as Annexure R-1/T."

8. On 12-11-2024, the complainant's counsel admitted the factum of compromise.

9. Although the offense is not compoundable and non-binding on the prosecution, the fact of compromise is not disputed, and it has been explicitly mentioned in para 5 that the parties are related to each other. Thus, without commenting on the admissibility of the compromise for the purposes of bail, there would be no justification

to deny it.

10. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

11. Given the above, the penal provisions invoked 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 custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner(s) makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

12. Given above, provided the petitioner(s) is not required in any other case, the petitioner(s) shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the petitioner(s) 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)	

14. This order is subject to the petitioner(s)'s complying with the following terms.

15. The petitioner(s) shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner(s) 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.

16. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner(s) notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner(s) 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.

19. **Petitions are allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

29.11.2024

Sonia Puri

Whether speaking/reasoned:

Yes

Whether reportable:

No.