

CRM-M-34488-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34488-2024
Reserved on: 10.09.2024
Pronounced on: 27.09.2024

Harjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
76	20.06.2023	Subhanpur, District Kapurthala	7 & 13 (7-A added later on) of PC (Amendment) Act 2018 and Sections 222, 120B (166A added later on) 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. As per custody certificated dated 09.09.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	264	20.06.2023	61/1/14 of Excise Act	Goindwal Sahib

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

“3. That present FIR No.76 dated 20.06.2023 U/S 7 The Prevention of Corruption Act 1988, 222,120-B IPC (Offence U/s 166-A IPC and section 13, 7-A of PC Act added later on) Prevention of Corruption Act 1988 P.S. Subhanpur, District Kapurthala was registered on the statement of complainant Ramninder Singh (the then SP Investigation, Kapurthala) against SI Harjit Singh i.e. present petitioner, ASI Paramjit Singh and Onkar Singh (Gujral Singh @ Joga and Joginder Singh @ Bhai were nominated as accused later on) wherein answering respondent has stated

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that SI Harjit Singh i.e. present petitioner was posted as an SHO in Police Station Kotwali, Kapurthala and as per allegations leveled in the FIR which was originally registered for the offences U/s 7,7-A, 13 PC ACT, 222, 120-B, 166-A IPC against accused SI Harjit Singh i.e. present petitioner, ASI Paramjit Singh and Onkar Singh by the complainant Ramninder Singh PPS, it is clearly mentioned that one Gujral Singh @ Joga was arrested on 12.03.2023 by the police in PP Badshahpur, District Kapurthala where SHO/SI Harjit Singh i.e. present petitioner came there and stated that Gujral Singh @ Joga is needed in FIR No. 23 dated 11.02.2022 u/s 21-B, 29, 61, 85 of NDPS Act at Police Station Sultanpur Lodhi. On this Jagjit Kaur alias Mandy Grewal (dancer) talked with Incharge PP Badshahpur and then she talked with SHO Police Station Kotwali i.e. the present petitioner demanded Rs. 21,00,000/- for releasing Gujral Singh @ Joga in the said case and she took over the call and finalized the deal with the present petitioner for Rs.21,00,000/- and from the amount demanded, Rs.1,00,000/- was received by the SHO i.e. the present petitioner on the very same day by the co accused Joginder Singh (i.e. the father of Gujral Singh @ Joga) and on the next day, SHO Harjit Singh i.e. the present petitioner received another figure of Rs. 19,00,000/- and the remaining police Post in Charge Badshahpur took Rs. 1,00,000/- separately from co accused Joginder Singh (i.e. the father of Gujral Singh @Joga). After taking the said money Gujral Singh @ Joga was handed over to his father Joginder Singh and one Onkar Singh. Later on during investigation, vide DDR No. 11 dated 21.06.2023, Gujral Singh @ Joga and Joginder Singh @ Bhai were also nominated as accused in this case vide DDR No. 28 dated 22.06.2023, offence u/s 166-A IPC and Section 7A, 13 of P.C. Act were also added in the original FIR.”

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 OF PETITIONER & EVIDENCE AGAINST PETITIONER

10. That it is most respectfully submitted that there are specific allegations against the present petitioner with respect to receiving illegal gratification to the tune of Rs. 20 Lakhs to release accused Gujral Singh @ joga who

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was apprehended with 6 kg of poppy husk, moreover accused Onkar Singh, ASI Paramjit Singh, Joginder Singh and Gujral Singh @ Joga have suffered disclosure statement about the involvement of the present petitioner; moreover from the call detail record of Mandy Kaur and the present petitioner, it establishes the guilt of the present petitioner; moreover the present petitioner has failed to get recovered the sum of Rs 20 Lakhs received for releasing the accused Gujral Singh @ Joga. Thus, the present petition is liable to be dismissed.”

7. 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. However, as per paragraph 3 of the bail petition, the petitioner has been in custody since 22.04.2024. As per the custody certificate dated 09.09.2024, the petitioner’s total custody in this FIR is 04 months & 18 days. Given the penal provisions invoked viz-a-viz pre-trial custody, 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.

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.

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12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
13. 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.
14. **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.