

CRM-M-35057-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35057-2024
Reserved on: 09.09.2024
Pronounced on: 27.09.2024

Parmod @ Poda ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vishal Sharda, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
7	08.01.2024	Urban Estate Rohtak, District Rohtak	365, 379B, 392, 394, 34 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. As per paragraph 15 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	459	23.12.2023	379A, 34 IPC	Arya Nagar, District Rohtak
2	489	28.07.2018	420 IPC	Rohtak City. District Rohtak

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

“That the facts of the case are that complaint has been moved by Jai Singh Yadav son of Rajendra R/o Kamal Nagar, District Tikamgarh M.P at present tenant in Ramgopal Colony. Rohtak. complaint his In the complainant narrated that he work in gas pipeline maintenance. On 7/1/2024 at around 11:00 pm he went to Rohtak Bus Stand to go to Delhi, but did not find a bus for Delhi, so he came outside the bus stand. The complainant asked an auto driver to take the amount of fair through online/UPI, but he refused There was another auto driver behind him and

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he said that he would take the fare through UPI/online. There are two more passengers are standing behind and he will pick-up them and will come in a short period. When the complainant started walking ahead, the said auto driver came back and asked the complainant to sit in his auto. A boy was sitting behind and a boy who was sitting near the driver came on rear seat of auto, as soon as the auto started and both the boys made the complainant to sit in the middle. Those boys who were calling each other Monu, Pramod and Manoj took the phone of the complainant to enter the phone number and started asking for the password, when the complainant asked them to return his phone, then both the boys started beating the complainant and forcibly snatched his purse. Then the complainant got scared and started trying to escape from the auto, then those boys stopped the auto, beat the complainant and increased the speed of auto, so somehow the complainant jumped onto the road from the moving auto and the police admitted the complainant to Civil Hospital Rohtak for treatment. From there the doctor referred the complainant to another hospital. The complainant further disclosed that he can recognize the persons who snatched his purse and mobile phone of VIVO containing mobile No. 9522948384 and 6232804082. The complainant was also having aadhar card, pan card, company identity card and ATM card. On the basis of said complaint a vide a case case FIR No.7 dated 8/1/2024 U/s 365, 392, 394, 379B, 34 IPC was registered at Police Station Urban Estate, Rohtak.”

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:

“That the specific role of petitioner is that he gave beatings to complainant and snatched his purse. During investigation on the basis of disclosure statement of petitioner snatched purse, Adhar Card PAN Card and I D. Card of Jai Singh were recovered from him.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, as per paragraph 9 of the bail petition, the petitioner has been in custody since 08.01.2024. As per the custody certificate dated 06.08.2024, the petitioner's total custody in this FIR is 06 months & 28 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and

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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 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

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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.