



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.34989 of 2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Jagseer ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Himanshu Chhabra, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
65	26.06.2024	Moonak, District Sangrur	379-B, 341, 506 148, 149 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 14 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:

“2. That pursuant to the said order it is submitted that FIR No. 65 dated 26.06.2024 u/s 379-B,341,506,148,149 IPC P.S. Moonak was registered against Jagsir @ Deepu son of Puran Singh resident of Rattangarh, Buntty Singh son of Bhola Singh resident of Rattia, District Fatehabad (Haryana), Abhishek @ Sekhi son of Babli Singh resident of Rattia, District Fatehabad (Haryana), Sonu Singh son of Kulwant Singh resident of Simlapuri Colony, Rattia (Haryana) and unknown persons on the basis of statement of Manjit Singh son of Rajinder Singh resident of ward no. 1, Rattia, P.S. Rattia, District Fatehabad to the effect that he and Harshdeep Singh do the work of A.C. Repair at Moonak. It has been further alleged that on 25.05.2024 at about 9:33 AM, the complainant received mobile call from mobile no.70823- 50296 of Banti Singh, who told the complainant that the complainant had got involved his friend Jagsir @ Deepu in theft case in



CIA Fatehabad and they would teach him a lesson in this regard. At about 12:00 Noon, the complainant and Harshdeep Singh, were returning to Moonak on their motorcycle bearing registration no.HR-59-D-3968 make HF- DELUXE after finishing their work at Village Salemgarh and when they reached Grain Market, Moonak near the Dhaba of Giani on their motorcycle drive by the complainant and Harshadeep Singh pillion rider, then one black coloured Honda City Car, came from the opposite side and the driver of that car encircled the complainant by taking his car in front of the motorcycle of the complainant and in the meantime, Bunty Singh and Abhishek came there on one motorcycle make HF-DELUXE and they started abusing the complainant. Then Jagsir @ Deepu and his co-accused Sonu Singh armed with swords and the two other unknown persons alighted from the aforesaid car Honda City bearing registration No.HR-16-J-0146 and threatened the complainant to kill him. Then, Jagsir @ Deepu and his co- accused Banti started beating the complainant and when the complainant and Harshdeep Singh tried to flee from the spot after starting their motorcycle, then Jagsir @ Deepu and his co-accused Banti Singh snatched the key of the motorcycle from the complainant and pushed them in such manner that they had fallen to the ground. Thereafter, Jagsir @ Deepu and his co-accused Banti Singh ran away from the spot after snatching the motorcycle of the complainant. When the complainant and Harshdeep Singh raised alarm, the people gathered at spot and after seeing that, the aforesaid Abhishek Singh @ Sekhi and Sonu Singh also ran away in the said car 1 and the two unidentified persons also ran away on the motorcycle make HF-DELUXE of Banti Singh along with their respective weapons. On the basis of said statement of Manjit Singh, present FIR was registered against above said 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:

“4. A. ROLE OF THE PETITIONER JAGSIR @DEEPU

The present FIR was registered against the petitioner and 3 other co-accused by name and 2 un-known person on the basis of statement of Manjit Singh. The petitioner and his co-accused Sonu Singh armed with kirpans and two un-known persons came on car bearing no. HR-16- J-0146 and their co-accused namely Bunty Singh and Abhishek Singh came on motorcycle HF Deluxe and they surrounded the complainant, beaten him up, then they snatched the key of motorcycle bearing no HR 59D 3968 and stolen it away. So, a specific role is attributed to the petitioner in the commission of present offence.

B. THE EVIDENCE AGAINST THE PETITIONER.

The present FIR was registered against the accused/petitioner Jagsir @ Deepu and co-accused by name. Harshdeep Singh eye witness made statement u/s 161 Cr.P.C., wherein, he specifically stated that accused/petitioner Jagsir @ Depu and his co-accused Sonu armed with kirpans and two un-known persons came on car bearing no. HR-16-J-0146 and their co-accused namely Bunty Singh and Abhishek Singh came on motorcycle HF Deluxe and after surrounding then, U,cy shatched the key of motorcycle bearing no HR 59D 3968 and stolen it away.

7. The evidence and the allegations do not justify custodial interrogation or pretrial incarceration.
8. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.
9. 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.
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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa 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.
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)	
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13. This order is subject to the petitioner’s complying with the following terms. 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.
14. 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 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 also restrain the accused from influencing the witnesses and repeating the offense.
15. 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.”
16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. 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.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08..2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.