

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.35154 of 2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Veeru **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: **HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
95	29.03.2024	City, Kapurthala District Kapurthala	364, 342, 323, 148 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. As per paragraph 8 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	376	13.12.2017	Under Sections 323, 324 IPC	Kotwali Kapurthala
2.	351	26.11.2017	Under Section 61 Excise Act	Kotwali Kapurthala
3.	188/2023	-	Under Section 61 Excise Act	Kotwali Kapurthala

3. The facts and allegations are being taken from the reply dated 12.08.2024 filed by the State, which reads as follows:

“3. That present FIR No.95 dated 29.03.2024 U/s 364,342,323,148 of IPC Police Station City Kapurthala. District Kapurthala was registered on the statement of complainant Jatin Sharma against Amarjeet Singh, Veeru i.e. petitioner Gulzar Singh and 3-4 unknown persons wherein complainant has stated that Amarjit Singh Laddi and Veeru Le. petitioner waylaid the complainant in the Bania Bazar, Kapurthala, gave him beatings and thereafter forcibly made him to sit on their scooter.

4. *That complainant has further stated that his friend tried to rescue him but in the meantime applicant Gulzar @ Mau alongwith three- four unidentified persons came at the spot on two motorcycles. He strongly resisted their such acts. They kidnapped him on an e-rickshaw and took him towards Kanjli river and there they gave beatings to him with danda-sotas. Thereafter, they took him to their village and confined him in a room in the house of Amarjit Singh @ Laddi.*
5. *That complainant further stated that here they confined him in a room and Amarjit @Laddi gave blows with wooden stick on his left leg near the ankle, below the knees, above the knee and on the rightear.*
6. *That complainant further stated that then Gulzar@ Mau gave blows with wooden handle which hit on his left leg near the ankle, calf and knee. Then Veeru i.e. petitioner gave blow with wooden stick which hit on his left eye and rightshoulder. He fell down and all these persons alongwith the unknown persons gave beatingsto him while he had fallen down.*
7. *That complainant further stated that then Amarjitsaid that let us getcase registeredagainstLatin at PS Kotwali byallegingtrespasinginto the house and committing theft. Then theycalled someone and employeesof PS Kotwali came to the spot.His brother Krishan Sharma took him to Civil Hospital, Kapurthala for treatment. The motive behind the occurrence was that they assailants suspected him to be a informer of police against them as such complainant requested to take legal action against them.*
8. *That complainant was medico legally examined and asper MLR total fifteen blunt injuries were found on the person of complainant. Injury no.05 and 15 were kept under observation for opinion of specialist.”*

4. The petitioner's counsel refers to para 4 and 5 of the bail petition, which read as follows:

“4. That a totally false case has been registered against the petitioner. The petitioner has been falsely implicated as he is known to Amarjit Singh @Laddi being resident of same village i.e. Nawan Pind Bhathe. Infact the complainant was present in village Nawan Pind Bhathe and had snatched the mobile phone of the son of Amarjit Singh namely Ranjit Singh. The complainant was apprehended by Amarjit Singh etc. and petitioner being co-villager came to know about the said occurrence. Thereafter, the police was called to the spot who took complainant with them and later on lodged the FIR on behest of complainant who is a stock witness of the police.

5. *That there is delay of 4 days in lodging the FIR. The alleged occurrence has taken place as per the complainant on 25.03.2024 but the FIR has only been lodged on 29.03.2024 despite the fact that the alleged injuries suffered by the complainant are simple in nature.”*

5. 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.

6. The State's counsel opposes bail and refers to the reply.

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

“Role of Petitioner and evidence against petitioner

10. That there are specific allegations against the petitioner as MAGIST petitioner alongwith co accused Laddi kidnapped them, taken to Kanjli on e-rickshaw gave beatings and then kept confined him in a room. As per MLR there are fifteen injuries on the person of complainant. It is pertinent to mention here that petitioner has inflicted injury on left eye and shoulder of the complainant hence petitioner does not deserve any leniency from this Hon'ble Court as such present petition is liable to be dismissed.”

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)	

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 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 (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

15. 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 instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

16. 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."

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 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. **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.