

CRM-M-35405-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision: 06.08.2024

Rizwan...Petitioner

Versus

State of Haryana...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
239	23.06.2024	Civil Lines, Karnal	387, 285, 427, 120-B, 34, 193 IPC and 25(6)-54-59 of Arms Act

1. The petitioner aged 18 years, student of B.A. 2nd semester and is a first offender, 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. Facts of the case are being taken from reply dated 05.08.2024 filed by concerned DySP which reads as follows:-

“2. That in his statement, the complainant has stated that "I am resident of the above mentioned address and I am doing the work of sending people abroad and I am running an office under the name and style of M/S. USA Education consultation Private Ltd., Behind Old Bus Stand. Today i.e. 23.06.2024 at 10 O'clock, I came to my office in my Verna Car bearing registration No.HR-06-AY-0005 Black colour from my village Jani. It was holiday and I had to get the service A.C. installed in my office done, therefore I made a call to the A C. Operator and he said that he would come tomorrow. At that time my friend Rahul and his two other friends came in my office and I



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ordered some food for them. When we were sitting in the office at about 1.32.PM one boy namely Raju came in my office, who collects the rent of the office and further gave the City, Karnal same to the owner of the office has informed me that two boys who had muffled their face with white cloth came on motorcycle and shot fires on your Verna car Black colour. Upon this, I along with my friends Rahul and his other two friends came marks bearing out of and saw that there were five fire shots registration on my Verna Car No.HR-06-AY-0005 Black colour out of which one mark of fire on the rear tire of left side, three marks of fires were on the front and rear window of left side of the car and one mark of fire on the chassis on the lower side. Earlier, I was extended threat to kill me and my members family on my mobile No.93541-87000 from the following numbers 16072976128, 7818676907 and 7308476907 on 28.03.2024 and 13.04.2024 for extortion money and demanded Rs.40 Lacs monthly. I did not take the same seriously. Today i.e. 23.06.2024 after the firing on my car I received a phone call on my Mobile No.93541-87000 from the following numbers: 251963450634, who told me that he was the younger brother of Goldi Brar and today fires have been shot on your car which was just trailor and if you did not give one Khokha within two days you and the member of your family will be kidnapped. This firing has been done by unknown person in collusion with each others with intention to create fear in the society, cause loss and extorting money i.e. one Khokha. Hence, it is requested that strict legal action be taken against the accused persons and my life and liberty be protected."

2. That after registration of FIR, the investigation of the case was conducted by SI Krishan Kumar, Investigating Officer accompanying with PSI during the course Pawan Kumar, of inspected the place of who investigation occurrence and prepared the site plan of the place of occurrence. At the spot the place of occurrence was also inspected by the Scene of Crime Team. During the course of investigation perusal of CCTV Footage was conducted from places by various SI Krishan Kumar Investigating officer and search of the suspects who committed the crime was made. Thereafter for further investigation, the file of the case was received by ASI Randeep SinghNo.2037/Ratthal, Investigating officer STE Unit, Karnal, whe during the course of Investigation perused the CCTV Footage from different places. The photographs of suspects, who committed the crime were distributed medias. through On different 28.06.2024, Intelligence Bureau told that Social Special seeing on the photo of the motorcycle rider, the figure is matching with the figure of Ritik alias Sonu alias Lala son of Deepak resident of Kadargrh, Police Station Thana Bhawan, District Shamli (UP) and Mobile number of above named Ritik is 8273232736 and 9897916384 and now a days above named Ritik is using the white coloured Bolero car No.UKOBAG9788.



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in order to find out the location of mobile numbers of above named Ritik request has been made to Cyber Branch. After obtaining technical assistance, the above vehicle Bolero was stopped by police party and names and addresses of the person sitting therein were asked and the persons sitting in the vehicle turn by turn disclosed their names and addresses as Ritik Goyal son of Deepak Kumar resident of Station Thana Bhawan, Kadargarh, Police District Shamli (UP) Vipul alias Bulli non of Arvind Kumar resident of Hassanpur Lohri Police Station Thana (UP), Police Bhawan, Station District Thana Shamli Bhawan, District Shamli (UP) and Nazim son of Ali Nawaj resident of Bhaisani Police Station Thana Bhawan, District Shamli (UP). The enquiries from these persons were conducted turn by turn and after enquiries they were arrested as per procedure in the case. The formality of Arrest form was completed. Some heavy thing was seems to be kept in the front pocket of pent worn by Ritik. Accordingly personal search of the person was conducted in accordance with law and during search one illegal Pistol 32 Bore was right side pocket further enquiries, recovered from the of the person. the said On person disclosed that he accompanying with his associates have made five round firing on Verna Car parked outside Opera Institute near Bus Stand, Karnal with this Pistol on 23.06.2024. After taking out the magazine the recovered Pistol was checked and the said magazine was found to be loaded with 6 live cartridges. The same was unloaded safely. Thereafter ASI Randeep Singh marked the recovered Pistol with sign R. Thereafter ASI Randeep Singh after putting the Magazine in the pistol prepared the sketch thereof. Recovery memo was prepared which was signed by the accused and the witnesses. Thereafter accused Ritik in order to commit the crime, contacted Mithoo, Kalram, Whats app District Karnal No.+1 (678 48-7234 on his and +01 7357906000 by using his mobile for talking with him by using the same in compliance of the direction of gangster Bhannu Rana, Shambli, District Karnal an used motorcycle which was provided by the person named Chauhan on his No. +1 (470 338-4733 by using the mobile make I Phone 14 PRO and the same was produced before the Investigating officer and he pass code of mobile is 9194 in which Sim No.8273232736 was inserted, bearing IMEI No.356546582257398 an ME12 35654668277565 and the accused is using Whats app conversation. The mobile was taken into possession by the police vide recovery memo. Nemo of recovery was prepared. The vehicle used in the commission of crime by Ritik Goyal son of Deepak Kumar resident of Kadargarh, Police Station Thana Bhawan, District Shamli (UP), Vipul alias Bulll son of Arvind Kumar resident of Hassanpur Lohri Police Station Thana Bhawan, District Shamli (UP), Police Station Thana Bhawan, District Shamli (UP) and Nazim non of Ali Nawaj resident of Bhaisani Police



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Station Thana Bhawan, District Shamli (UP) make Bolero No.UK-08-AG-9788 was checked. The colour of the vehicle was found white, make Majindra & Mahindra Bolero, Chassis No.MA1XX2GPKE5E75292, Engine No.GPE4E 77770. The recovery memo of the vehicle was prepared Thereafter the complainant namely Amandeep was made to sit in the premises of STF for conducting the enquiry. and during enquiry Amandeep has admitted his involvement in the crime. Accordingly, Amandeep was arrested in the case as per procedure and requirement of arrest form was completed. Thereafter the accused of the case namely Amandeep has admitted to have talked with Bhannu Rana, Gangster of Kalram, who is in America through Snapchat and the mobile make I Phone 13 PRO max was used for the purpose of conversation has been produced before the investigating Officer. The Pass Code of the mobile is 0001 and Sim No.9354187000 was inserted therein. The IMEI No. of the mobile is 355980283429292 and IME 12 35598028342929. The mobile was taken into police possession vide recovery memo. The offence under Section 387 IPC was deleted and Section 193 was inserted. Thereafter accused Amandeep suffered his disclosure statement according to which he got conducted the demarcation of the place where Amandeep accused according to conspiracy in compliance of the direction of Gangster Bhannu Rana who is in Abroad met the persons who came to commit crime and paid them cash amounting to Rs.60,000/-. Site plan was prepared and the statements of the witnesses under Section 161 Cr. P.C. were recorded. Thereafter the medical examination of the accused persons was got conducted and they were kept in the lock up of police station. The case property was deposited in the Malkhana of 29.06.2024, during investigation on Police Station. On the course of the deep interrogation the accused namely Amandeep, Ritik, Nazim and Vipul without any fear, pressure and coercion suffered their respective disclosure statements according to which they got conducted the demarcation of the place where they met as per the direction of Gangster Bhannu Rana, which on comparison was found true and correct according to the site plan got prepared on the demarcation of accused Amandeep. Memo of identification was prepared, statements under Section 161 Cr.P.C. were recorded and the accused persons were produced before the Hon'ble Court. The police custody of the accused persons for 2 days was obtained, Medical Examination of the accused persons was conducted and the accused persons were kept in the lock up of Police Station. During the course of investigation accused Ritik and Nazim besides their disclosure statement have admitted to have committed the crime in this case, which was reduced into writing and was signed by the accused and the witnesses. Thereafter raid was conducted at the house of Vishal son of



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Pawan, resident of Bhamori (UP) to search him as he has provided the weapons to the other accused for commission of the crime, but he was not found available at his house. Thereafter accused Ritik got effected the recovery of clothes worn by him at the time of omission of crime from the room constructed in his residential house, according to his disclosure statement dated 23.06.2024. On being checked the clothes one pent American Classis blue colour bearing the vertical lines and on back pocket of which KARL is recorded and has a logo while the shirt which bears the design with Mehroon, white, green and Coffee colour and the same bears the branding of Bench Urban Wear. The clothes which were worn by the accused at the time of commission of crime was kept in a while coloured cloth bag and a parcel of the same was prepared and was sealed with the seal of RB/1, Seal after use was handed over to ASI Balwan Singh. Memo of list of parcel was prepared, which was signed by the accused and the witnesses. Site plan of the place of recovery was prepared. Thereafter, the accused namely Abdul Kadir son of Mohd. Hamid, resident of bhaisani Islampur, Police Station Thana Bhawan (UP) was joined in the investigation from his residential house and enquiry from him was conducted and accordingly after enquiry he was arrested in the case as per procedure. Arrest form was completed. He suffered his disclosure statement, which was signed by the accused and the witnesses. Thereafter accused On Abdul Kadir got effected the recovery of clothes worn by him at the time of omission of crime on 23.06.2024 from the room constructed in his residential house. On checking one Black colour lower consisting of pocket on both it sides and bears the symbol of Nike Branch on left side of lower while on the right side of lower Jordan was written and symbol was there. T Shirt having black colour and on the T Shirt at the place of Chest towards left Fighting side written and green line appears portion of T Shirt and on Fighting was some was written. The clothes which were worn by the accused at the time of commission of crime was kept in a while coloured cloth bag and a parcel of the same was prepared and was sealed with the seal of RS/1. Seal after use was handed Singh. Memo of over list of to ASI Balwan parcel was prepared, which was signed by the accused and the witnesses. Site plan of the place of recovery was prepared. Thereafter the accused Kadir Abdul and Ritik got conducted the demarcation in Karnal City of the place where the accused persons on the demarcation of accused Amandeep 23.06.2024 got firing on Verna vehicle by hatching criminal conspiracy. On comparison of the site plan of the place of occurrence the same was found true and correct. recovery The case property memo was as per in deposited the the Malkhana of Police Station. During the course of investigation on 01.07.2024 the accused Abdul Kadir while reaching near Mac D. conducted Karnal of got the the demarcation where place on 23.06.2024, prior to



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commission of crime Amandeep accused met the other accused, which was found to be correct as per the site plan prepared on the demarcation of accused Amandeep and witnesses were recorded. statement of the After conducting the medical examination of accused Ritik Goyal, Vipul alias Bulli, Nazim, Amandeep and Abdul Kadir, they were produced before the learned Court and they were sent to judicial custody in District Jail, Karnal. The investigation of the case is still in progress and other accused are yet to be arrested. The Motorcycle of accused Rizwan, which was used in the commission of crime is yet to be recovered.”

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 opposes bail.

6. Counsel for the petitioner without conceding and admitting submits that the petitioner was befooled by criminals who impersonated as dreaded gangsters and under their fear and threat, the petitioner who had clean antecedents fell prey to their designs and considering his young age and he is studying and has clean antecedents, at least final opportunity be given to mend his ways and live a simple life.

7. State opposes the bail and refers to para no.5 of the reply which reads as follows:-

“5. In reply to quarry (A) of the order dated 25.07.2024, it is submitted that the role of the petitioner in the present case is that the petitioner as per the direction of Gangster Bhannu Rana, who is staying in foreign country in order to commit the offence reached in Karnal city on 23.06.2024 along with his companions namely Ritik, Nazim, Vipul and Abdul Kadir in vehicle No.UK-08-AG-9788 under conspiracy and from where, the accused namely Ritik and Abdul Kadir while riding on motorcycle reached at Opera Institute of the complainant Amandeep and made 5 round firing on Verna car parked outside the institution. Thereafter accused Ritik and Abdul Kadir met the other companions Nazim, Vipul and Rizwan who were standing out from Karnal Thereafter Rizwan and Abdul Kadir accused fled away on the motor cycle which was used in the commission of crime. The used motorcycle in the commission offence is still in possession of accused Rizwan and in order to save him from arrest, he is escaping from producing. the motorcycle. It is further submitted that for the work Rs.1,50,000/- was to be given to the accused persons out of which Rs.50,000/- received. Moreover was the name of the petitioner has also been disclosed by co-accused Abdul Kadir in his disclosure statement dated 30.06.2024 Annexure R-1.”

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8. An analysis of the allegations, pleadings and reply would clearly point out that there is sufficient evidence pointing towards petitioner’s involvement, however considering the fact that petitioner has clean antecedents, is a student and is just 18 years i.e. in formative years of his life, this Court is willing to give one final opportunity to the petitioner to mend his ways and lead a normal and decent life. This bail is subject to the condition that the petitioner shall not indulges in crime whatsoever and if he indulgences in any crime where the sentence is more than 07 years, then the State shall file an application for cancellation of bail.
9. Given the penal provisions invoked coupled with the primafacie 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. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.
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,



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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 and also to block the menace of drug abuse. 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.



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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. **The grant of bail shall not be considered as a precedent for bail to other co-accused.** All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

06.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.