

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.36325 of 2024
Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Gagandeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Robandeep Singh Bhullar, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

Rapt/ No.	DDR	Dated	Sections
70		16.04.2024	452, 323, 506, 148, 149 IPC
IN cross case FIR No.	Dated	Police Station	Sections
71	16.04.2024	City Kotkapura, District Faridkot	307, 341, 506, 148, 149, IPC and 25, 27 of Arms Act, 1959

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 15 of the bail petition, the accused declares that he has no criminal antecedents.
3. Facts of the case are being taken from reply dated 08.08.2024 which is reproduced as under:

“the complainant Shawanpal Singh son of Charanjit Singh son of Shingara Singh r/o Kashmiriyan WalaMohalla, Near SarsaDera, Kotkapurasuffered statement to the following effect:-

“..Statement of Shawanpal Singh son of Charanjit Singh son of Shingara Singh resident of Kashmiriyan WalaMohalla Near SarsaDera, Kotakpura aged about 23 years Mob no. 81949- 91965, stated that I am resident of above said address and doing house work. On dated 15.04.2024 at about 08:00 PM I was coming back after having bow at Baba Shiv

Mandir of Baba Kabal shah when I was going in between the Chaki of the Akalian and Kiryana shop of the Sachdeva in the street then my friend ManiSingh son of ShinderSingh met me on the way. We started talking when I about to left from the place then Rahul Langa came out from the house of Happy Lungi in the street of Happy Mehra and from the Endeavour car colour white parked in front of shop of Sachdeva Ram Vehniwal resident of WaraDraka, Ravel Singh @Ravela son of Balkar Singh resident of VadaDraka, Akshay Kumar Sunny son of Manjitpal resident of Kotakpura armed with baseball; Bhatti WasiDhakkaBastiKotakpura armed with Dasta and 3-4 unknown persons resident of DhakkaBasti they are also armed with baseball has come out from the car and come to my side then Rahul Langa has shouted Lalkara and said that today you will not be spared. We let you know to help Money Singh son of ShinderSingh resident of Kotakpura, All of them has encircled me. Then Akshay Kumar has given hit of his baseball on me that hit my back then Bhattiresident of Kotakpura has hit his armed Dasta to me that hit my back. I fell down then all of them has beaten me while I was lying on ground and has given blow in my stomach. When I ran away after leaving them, then Ravel Singh Ravel and Ram Veniwal has taken out armed pistol from their Dabs and fired on me with an intention to kill me. Then one fire hit me whilerunning on right side of my back and I fell down and they have fired 3-4 more, then after hearing the fire sown the people of the Mohalla has gathered. Afterseeing the gathering of the people all. of them has fled away from the spot with their weapons on Endeavour vehicle. In the meantime my parents has come on the spot and my father Charanjit Singh after arranging vehicle has got admitted in CivilHospital, Kotakpura. Where I was refer to Guru Gobind Singh Hospital, Faridkot where I am under treatment the bone of contention is that 4/5 days earlier all of these are having fight with my friend Mony Singh son of Shinder Singh resident of Kotakpura who was working with Vicky Bollywood Photographer Kotakpura. I have helped him. Having this bone of contention all of these in connivance with eachother has attacked me and has fired with an intention to kill me. Strict Legal action may be taken against them. Statement has got recorded to you and it is heard and it is correct. Sd/- SawanpalSingh."

4. The petitioner's counsel argues that he is entitled to bail on parity with the similarly placed or co-accused Baljeet to whom anticipatory bail was granted in CRM-M-28391-24 (P-4).

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 opposes bail.

7. It would be appropriate to refer to the following portion of the reply which reads

as under:

“(A) **Role of Petitioner:-**

- i) *Petitioner alongwith Tota @ Rahul, Teerath Singh, sons of Shauki Singh resident of Kotakpura, Nado son of Bur Singh resident of Kotakpura armed with baseball, Bali Singh armed with Kirpan, Raju Dana armed with Kirpan and 6-7 unknown persons has entered into house of Harcharan Singh @ Happy Langi (Complainant in DDR) and gave beating to him and gave punched on his back and stomach.*
- ii) *Petitioner has actively participated in the crime.*
- iii) *Petitioner was member of un-lawful assembly and has actively participated in the crime.*

B. The evidence against the petitioner:

Harcharan Singh @ Happy Langi son of Guljar Singh son of Bachan Singh Kashmirian WalaMohalla Kotakpura resident of has specifically named the present petitioner in his statement.”

8. Given the cross cases and the petitioner’s role, 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.
9. 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.
10. 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 Ilqa 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.
11. 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) | |
12. 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.

13. 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.

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 instill confidence in the victim(s), their families, and society; it 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 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.”

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.