

CRM-M-36604-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36604-2024
Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Sonu alias Ravi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Bikramjeet Singh Randhawa, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
44	15.06.2024	Nurpur Bedi, District Rupnagar	25/54/59 of Arms Act

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 11 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 it is respectfully submitted that the factual matrix relating to the present case are that, on 15.06.2024, Incharge, Police Post Hari Pur, Police Station Nurpur Bedi, District Rupnagar, along with police party was on patrolling on government vehicle and was present in the area of village Bhatton, and it was about 06:40 PM, where he received secret information that one Pardeep Singh @ Baba, son of Gurcharan Singh, resident of village Bhogipur, PS Nurpur Bedi, District Rupnagar, who is aged about 21 years, and studying at Khalsa College, Sri Anandpur Sahib was in possession of illegal country made pistol illegally and that he could cause some damage and harm anyone and on that day also said Pardeep Singh @ Baba was coming on foot from Bhogipur to Bhatton side and in case raid is conducted then said Pardeep Singh @ Baba can be apprehended with said illegal country made pistol. It is further submitted that finding the information as reliable, the investigating officer recorded ruqa and sent the same to Police Station Station Nurpur Bedi, District Rupnagar, and on the basis of same FIR No.44 dated 15.06.2024, under Section 25 Arms Act 1959, (Act 54 of 1959) was registered, against

Pardeep Singh @ Baba.

3. That it is further submitted that thereafter investigating officer reached at Bhogipur to Dhamana road and laid picket and after sometime Pardeep Singh @ Baba came from Bhogipur side and he was apprehended at the spot by the investigating officer, and his name and address was inquired, and his personal search was conducted and he was inquired by the investigating officer. That during inquiry, Pardeep Singh @ Baba got recorded his disclosure statement that he has kept concealed a country made pistol near the bandh in the Shamlat Land in the fields adjoining to his house and only he was knowing the same and that he can get the same recovered from the disclosed place. It is further submitted that the disclosure statement of Pardeep Kumar @ Baba was recorded and thereafter he was taken into custody by the investigating officer by making him aware about his offence. It is further submitted that Pardeep Singh @ Baba, on the basis of his disclosure statement got recovered one country made Pistol from the disclosed place and the same was checked and was taken into police possession by the investigating officer by preparing a parcel and by sealing the same with his seal at the spot by the investigating officer, in the presence of witnesses.

4. That it is further submitted that said parcel was deposited by the investigating officer with the MHC of Police Station Narpur Bedi and on 17.06.2024, while accused Pardeep Singh @ Baba was custody, he was again interrogated by the Investigating officer regarding sources of firearms recovered from him during interrogation, Pardeep Singh @ Baba disclosed that he was President of Student Union of Khalsa College, Sri Anandpur Saib and has friendship with Sonu @ Ravi (present Petitioner) and the country made pistol which was got recovered by him, was provided to him by Sonu Ravi (present Petitioner), for the purpose of protecting himself, as he being president of student Union, of Khalsa College, Sri Anandpur Sahib, was receiving threats on social media. It is further submitted that on the basis of aforementioned disclosure made by the accused Pardeep Singh @ Baba, present Petitioner-Sonu @ Ravi was nominated as an accused in the present case by the investigating officer vide DDR No.29 dated 17.06.2024.”

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:

“5. A. Role of the petitioner

That it is respectfully submitted that from the interrogation of main accused namely Pardeep Singh Baba, it has been transpired that the illegal country made pistol recovered from him, was actually provided by the present petitioner-Sonu @ Ravi. It is further submitted that Sonu Ravi and Pardeep Singh @ Baba are friends and the recovered pistol was

provided by the present petitioner-Sonu @ Ravi to the accused Pardeep Singh @ Baba. It is submitted that on the basis of the disclosure statement made by accused Pardeep Singh @ Baba, present petitioner-Sony @ Ravi was nominated in this case as an accused in the present case.

6. B. Evidence against the petitioner:

That it is respectfully submitted that present petitioner-Sonu @ Ravi and accused Pardeep Singh are friends and further from the interrogation of the main accused Pardeep Singh @ Baba, present Petitioner-Sonu @ Ravi has been nominated as an accused in the present case and further evidence would be collected from the interrogation of the petitioner-Sonu @ Ravi, during the course of investigation.”

7. The quality of evidence would neither justify custodial interrogation nor pre-trial incarceration.
8. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.
9. Given the above, 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.
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. The bail order is subject to the petitioner's complying with the following terms.

14. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. 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.

16. 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.

17. 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

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rights and liberties must be eschewed.”

18. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

19. 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.

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

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.