

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-36643-2024
Reserved on: 16.10.2024
Pronounced on: 24.10.2024

Parminder Singh @ Sonu Walia ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Molly Tarunima Tagor, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
216	04.12.2023	Sadar Bathinda	307/353/186 IPC and Sections 25/54/59 of the Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.

2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents, but as per paragraph 13 of the status report filed by the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offences	Police Station
1	79	24.04.2023	379/379-B/411 IPC	Canal Colony, Bathinda
2	215	04.12.2023	379-B/323/34 IPC	Sadar, Bathinda

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

“Statement of SI Harjiwan Singh No.13/Bathinda, CIA Staff-1. Rathoda, Mobile No +91-98784-21811. Stated that today 1, SI along with SI Mohandeep Singh 2/1535, ASI Harinder Singh 1155, ASI Gurmeet Singh 952. HC Inderjit Singh 46.3, Constable Lakhwinder Singh 2211, Constable Rajinder Singh 11, Constable Jeevanjot Singh 1863 were in government vehicle bearing Registration No.PB-03AT-0392, whose driver was C2 Amrik Singh 2143 was going to link road to Cancer Hospital near Sanyati Growth Centre (400 Acres) Near Municipal Children Park and the time was around 07:05AM, when the police party

was about 30 Steps left from the park towards the road, then 50 Steps ahead from there, one man was seen standing in a suspicious condition, next to a black motorcycle without number plate. Then I, SI quickly stopped the car along with the help of other police officials and tried to catch him. But, he ran towards the bushes on the opposite side of the road towards and while running he took a pistol out of his pocket and fired towards the police party with the intention to kill. Then I, SI tried to stop the young person by firing in the sky and asked him to stop but instead of stopping, he took out another cartridge from the pocket of his lower and tried to load it in the pistol. Then, I, SI tried to catch him to protect the police party, so I, SI fired with my service pistol towards the foot of the man, that hit him on his left knee and, on getting injured, he threw his pistol and cartridge and sat down. Then, upon asking, the man revealed his name as Parminder Singh @ Sonu Walia Son of Amrik Singh resident of House No.24164, Street No.C-3, Guru Ki Nagri, now at Street No.11/1, Baba Deep Singh Nagar, Bathinda. One 12 bore pistol and one 12 bore cartridge was found lying next to him. He was then taken to the Civil Hospital, Bathinda for treatment in government vehicle under custody of ASI Gurmit Singh 952, Constable Lakhwinder Singh 2211, Constable Rajinder Singh 11/Bathinda. I, SI gave information to DCR Bathinda and higher officials that above said Parminder Singh has fired shot at the police party with intention to kill. Then, you along with police party came at place of occurrence and action be taken against the above said accused Parminder Singh. Statement is recorded, listened and found to be correct. Sd/- SI Harjiwan Singh, testified by Sd/- ASI Dharamvir Singh, In-Charge PP Kotshamir, Bathinda, Dated 04.12.2023."

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 status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

"14. That in specific compliance of order dated 06.08.2024 passed by this Hon'ble High Court, the queries of the Hon'ble High Court are answered in question-answer form hereinafter as under:

A. The role of the petitioner.

The accused/petitioner Parminder Singh alias Sonu Walia had committed heinous crime of offences punishable under section 307, 353, 186, 411 Indian Penal Code and Section 25 of Arms Act, while opening fires upon police party without any hesitation even after given warning by the police party and thereby had put many lives into danger. The accused/petitioner Parminder Singh alias Sonu Walia was carrying illegal fire arm 12 Bore Pistol along with cartridges and motorcycle without registration number just in order to avoid his apprehension while committing any crime. Moreover, as per the act and conduct of accused/petitioner Parminder Singh alias Sonu Walia, who opens fires upon police party, may does not have any hesitation to open fire upon the innocent citizens of country for any crime in future and as such he does not deserves any kind leniency from the

Hon'ble High Court.

B. The evidence against the petitioner.

Since, the accused/petitioner Parminder Singh alias Sonu Walia was apprehended at spot only after receiving fire arm injury from police party in retaliate, the investigating officer had got recovered illegal fire arm 12 Bore Pistol along with cartridges and motorcycle without registration number, which were kept by him just for avoiding his apprehension while committing any crime. Moreover, there are testimonies of police officials against him and also the investigating officer had presented challan against him, which is pending adjudication before the Learned Trial Court and the Learned Trial Court had framed charges against him after finding the offences under section 307, 353, 186, 411 Indian Penal Code and Section 25 of Arms Act were prima facie made out vide order dated 09.08.2024."

7. The police party did not receive any injury, whereas the petitioner did get a bullet shot in his knee.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, per paragraph 6 of the bail petition, the petitioner has been in custody since 08.12.2023 and his custody in this FIR is more than 10 months. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned 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.

13. 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 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. 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

24.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.