

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37274-2024
Reserved on: 16.10.2024
Pronounced on: 25.10.2024

Mani Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Balwant Singh, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
03	25.01.2024	Sadar Rupnagar, District Rupnaar	307/342/365 IPC

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 18 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:-

“That at the very outset it is respectfully submitted that on 23.01.2024, a written medical information was received from Civil Hospital, Rupnagar, at police station Sadar Rupnagar, whereby it was informed that Harfateh Singh son of Gurdip Singh, resident of village Rampur Majri, District Rupnagar, was admitted in the hospital and the Station House Officer of police station Sadar Rupnagar, was instructed to carryout investigation in the matter. It is further submitted that on receipt of aforementioned information, the investigating officer reached at the Hospital and moved an application seeking fitness of the injured Harfateh Singh, however, the duty doctor directed the investigating officer to record the statement of father of the injured-Harfateh Singh. It is further submitted that the complainant-Gurdip Singh son of Parkash Singh, however, Gurdip Singh stated to the investigating officer that he was under shock and his son was also not well and therefore he told the investigating officer that he would get his

statement recorded later on. It is further submitted that on 24.01.2024, complainant- Gurdip Singh presented a written compromise and told the investigating officer that since he has compromised the matter with the accused with the intervention of the respectable, therefore he do not want to take any action in the matter.”

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 reply, which read as follows:-

“That it is respectfully submitted that on 25.01.2024, complainant-Gurdip Singh along with his wife reached at police station and got recorded his statement that the date of birth of his son Harfateh Singh is 30.01.2019 and that on 23.01.2024, at about 06:15 PM, he reached at his house after his duty hours and he found that his son Harfateh Singh was missing and he asked her wife Ranjit Kaur about Harfateh Singh and she told him that he went to play at the house of his uncle Jeet Singh and after some time he and his wife went to see his son in the house of Jeet Singh, then he was not found there and they along with other family members started a search for their son Harfateh Singh and during search at about 06:40/06:45 PM, his son Harfateh Singh was found crying to his aunt Gurmeet Kaur near the Dharamshala of the village and his cap and slippers were missing and further there were marks on his neck and Harfateh Singh was perplexed and they took him to Civil Hospital, Rupnagar. It was further averred by the complainant-Gurdip Singh that on 24.01.2024, his wife Ranjit Kaur asked her son Harfateh Singh as to what was happened and then their son told her wife that petitioner-Mani Singh took him to forest side by inducing to get him chocolate and chips and also to show him puppies and while reaching in the jungle, petitioner-Mani Singh put shawl in the neck of the victim-Harfateh Singh and throttled him, however, victim- Harfateh Singh started crying loudly and then petitioner-Mani Singh left him near the Dharamshala of the village and fled away.”

7. 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 19 of the bail petition, the petitioner has been in custody since 26.01.2024. Per the custody certificate dated 15.10.2024, the petitioner's total custody in this FIR is 8 months and 16 days. 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.

8. 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.

9. 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.

10. 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)	

11. This order is subject to the petitioner's complying with the following terms.

12. 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 (CrI.) 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. 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

25.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.