

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.37630 of 2024
Reserved on: 16.10.2024
Pronounced on: 22.10.2024

Aaditya ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sarvesh Malik, Advocate
for the petitioner(s).

Mr. Ashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
329	27.10.2023	Badli, District Jhajjar	307, 34 IPC, 1860 and 25, 27, 54, 59 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. As per custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	365	07.11.2022	Under sections 147, 148, 149, 323, 506, 384, 201 IPC and 25, 54, 59 of Arms Act	Badli, Jhajjar
2.	153	12.05.2022	147, 148, 323, 387, 379-A, 506, IPC and 25 of Arms Act	Badli Jhajjar
3.	142	2021	307, 506, 34 IPC and 25, 54, 59 of Arms Act	Badli Jhajjar

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

“4. That the facts giving rise to registration of the present FIR are that on 27.10.2023 an complaint was moved by complainant namely Vansh S/o

Kashi Ram resident of village Badli in Police Station Badli in the manner that To SHO Sir Police Station Badli, Sir, it is a request that I am Vansh S/o Kashi Ram resident of village Badli Pana-Lakhyan and studying in 12th class. Our shop is near Badli Bus Stand in the name of KC Ram Khad Beej Bhandar. Before which, my father had parked in front of the shop after filling the trolley with paddy. Who had to take it to Najafgarh Mandi in the morning. I was sitting near the tractor trolley. When today 27/10/23 at 12:30 am Karan S/o Kailash resident of Badli, Aaditya Jhandu S/o Lagdi resident of Badli, Sahil S/o Sume resident of Badli, Sunny S/o Jasdev resident of Dariyapur, all four came on HD-Deluxe Motor Cycle. Seeing me sitting there, they started abusing me. When I made noise, Pawan S/o Pappu @ Umesh, Ankit son of Jaideep brought a motorcycle which was also accompanied by Devil son of Mainpal, came there. Karan and his three friends again had a fight with me. I picked up the stones lying there and threw them towards them in my defence. At that moment, Karan fired at me AR 12 with Satyavir Saini the pistol he was holding in his hand and after firing, all Jergens Reg. No. POVT OF taken against ran away towards Delhi. Legal action should be all four of them". Copy of FIR is enclosed as Annexure R-1."

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, mentioning that the co-accused Karan fired at the complainant. Thus, the allegations against the petitioner are much less heinous than those against Karan.

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. Per the custody certificate dated 15.10.2024, the petitioner's total custody in this FIR is 11 months and 06 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 (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. 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

22.10.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.