

CRM-M-38100-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38100-2024
Reserved on: 03.09.2024
Pronounced on: 13.09.2024

Balwinder Kumar @ Pitti ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Sharma, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
101	11.04.2024	Phillaur, District Jalandhar Rural	454, 380, 436, 427, 34 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. As per paragraph 7 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	338	25.12.2023	379B(2), 324, 34 IPC	Phillaur, District Jalandhar Rural

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

“That FIR No. 101 dated 11.04.2024 U/ss 454, 380, 436, 427, 34 IPC was registered at Police Station: Phillaur, District Jalandhar Rural on the basis of the statement of complainant namely Avtar Ram son of Waryam Ram wherein complainant stated that he is a labourer and has three sons. One of the Complainant's son namely Sandeep Kumar is a drug addict and on 10.04.2024 at about 02:00 PM, complainant's son namely Sandeep Kumar along with Sukhwinder Kumar, Balwinder Kumar @ Pitti (petitioner) and one unknown person lit one room of Complainant's house on fire. After putting the room on fire, the said 4 persons removed girders from the room and sold the same to a scrap vendor. Hence, the instant

CRM-M-38100-2024

case FIR was registered against Sandeep Kumar, Sukhwinder Kumar, Balwinder Kumar @ Pitti and one unknown person.”

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:

“ROLE OF PETITIONER:

4. That petitioner along with Sandeep Kumar, Sukhwinder Kumar and Rajan lit the room of complainant's house on fire, stole girder and sold the same to a scrap vendor.

EVIDENCE AGAINST THE PETITIONER:

5. That complainant, in his statement which led to the registration of instant case FIR, has specifically named the petitioner. Furthermore, co-accused Sandeep Kumar in his disclosure statement also admitted that he along with petitioner Sukhwinder Kumar and Rajan lit a room of complainant's house on fire and stole girder from there.”

7. Given the quality of the evidence implicating the petitioner with the alleged offense, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, this Court is not considering the evidence at that stage but is analyzing it for the bail stage.

8. Given the above, the penal provisions invoked 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. 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.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory 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.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

CRM-M-38100-2024

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 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.
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. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
15. 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.
16. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.09.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.