



CRM-M-38553-2024 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M No.38553 of 2024  
Reserved on: 16.10.2024  
Pronounced on: 29.10.2024

Vikas @ Bashi ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Ashish Bishnoi, DAG, Haryana.

Mr. Bhanu Pratap, Advocate and  
Mr. Kamil Nagpal, Advocate  
for the complainant.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station              | Sections                                            |
|---------|------------|-----------------------------|-----------------------------------------------------|
| 406     | 22.12.2023 | Nissing, District<br>Karnal | 148, 149, 308, 323, 324,<br>379B, 427, 452, 506 IPC |

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 14 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:

*“1. That it is submitted that a complaint was submitted in the Police Station Nissing, Karnal by Rampal S/o Datu Ram resident of Nissing along with MLR No.GK/NSG/2023/62 dated 21.12.2023 of Sonu S/o Bira Ram resident of Nissing and MLR No. GK/NNS/2023/63 dated 21.12.2023 of Rahul S/o Surinder resident of Gonder mentioning therein that he was present at Gallarpur Road Power Zone Gym with his nephew. At that time Deepak Lot S/o Suresh, Sethi, Ajay son of Sham Lal, Aryan S/o Mahinder, Rocky, Ravi who were all armed with gandasi, swords, pharsas and*



*followed by 26/27 boys armed with weapons came inside the gym and Rahit @ Rohta, Sethi, Deepak, Kalu, Chanderkant attacked Sonu with sharp-edged weapons with the intention to kill him while Ravi, Ajay, Rocky, Aryan attacked Rahul with sharp-edged weapons. Deepak Lot was carrying a pistol on his waist. Thereafter, on raising of lalkara by Rohit @ Rohtas and Deepak Lot the other boys, some of whom had covered their faces, destroyed the Gym and snatched cash amount Rs.50,800/-, CCTV and DVR. Sethi, Aryan, Sahil Singha, Sethi's brother-in-law from Gharaunda and others are participants in the incident of destruction of property, dacoity and criminal intimidation. Certain other persons who were using the Gym, their mobile phones were also snatched by Rocky and other boys. Deepak Lot and others raised lalkara and threatened that in case any person dares to be a witness or tries to help the complainant party, then they will not spare him. While going away, the accused stated that they had merely made the complainant party understand and if they still continue to run the Gym without accompanying the accused, then they would lost their lives. Aryan and others damaged all the bikes standing outside the Gym with their weapons and by displaying weapons in open went away. Out of them most of accused are of Balmiki Basti Nissing. The complainant knows them personally and they all have past criminal record and also enjoy political patronage. Previously also, they had threatened them to close the Gym regarding which he had also moved an application. On the basis of the statement of the complainant FIR no.406 dated 22.12.2023 U/s 148,149,308,323,324,379-B, 427, 452, 506 IPC was registered in Police Station Nissing Karnal (Annexure P-1)."*

4. The petitioner's counsel had submitted as was recorded in the order dated 16-10-2024, which reads as follows:

*"Petitioner's counsel submits that in case he is released on bail, he undertakes not to threaten witnesses, would stay away at a radius of 1KM from the complainant and aggrieved persons. He also undertakes not to tamper with the evidence and also not to delay the trial and further undertakes to fully cooperate with the investigator. He also submits that in case he violates any of such conditions, he would have no objection in case the complainant approach for cancellation of petitioner's bail."*

5. 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.

6. The State's as well as counsel for the complainant opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:



*“6. That after completion of the investigation against petitioner accused, Rohit @Rohta, Deepak Kumar @ Deep Lot, Sahil @Singha, Pankau @ Sethi, Ajay S/o Rameshwar, Pardeep @ Chaillu and Deepak @ Chaillu, report U/s 173 Cr.P.C. was prepared on 28.03.2024 against the above mentioned accused U/s 148,149,308,323,324,379-8,427,452, 506 IPC and the same was submitted to the Illaqa Magistrate Karnal. The Ld. Judicial Magistrate Karnal committed the case before the court of Ld. Sessions Judge Karnal and after receipt of the case from Ld. Sessions Judge, Karnal, the Ld. Trial Court framed the charge against the accused u/s 148, 308, 323, 324, 427,452, read with section 149 and 379-B, 506 IPC vide order dated 26-07- 2024. Now the case is fixed for evidence of prosecution witnesses for 26-09-2024 before the Ld. Additional Sessions Judge Karnal.”*

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. Per the custody certificate dated 14.10.2024, the petitioner’s total custody in this FIR is 09 months and 09 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.

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 Illaqa 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 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.

15. 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.

16. 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



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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.”

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

18. 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.

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

(ANOOP CHITKARA)  
JUDGE

29.10.2024  
Sonia Puri

|                            |     |
|----------------------------|-----|
| Whether speaking/reasoned: | Yes |
| Whether reportable:        | No. |