

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38859-2024
Reserved on: 11.09.2024
Pronounced on: 27.09.2024

Lovejit Singh @ Love ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
82	22.10.2023	Tarsikka, District Amritsar	379(B)/411 IPC and Sections 25/54/59 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. Per paragraph 12 of the bail application, the accused has the following criminal antecedents:

Sr. No	FIR No.	Dated	Offences	Police Station
1	241	26.07.2023	307/506/34 IPC and Sections 25/27 of Arms Act	City Tarn Taran
2	84	22.10.2023	379 (B) 2 IPC and Section 25 of Arms Act	Tarsikka, District Amritsar Rural
3	157	09.11.2023	307/353/186 IPC and Section 25 of Arms Act	Chattiwind, District Amritsar Rural

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

“3. That the brief and relevant facts of the case are that the aforesaid FIR No 82 dated 22.10.2023 was registered on the basis of a statement of Harpreet Singh son of Narinder Singh, resident of village Pur, District Patiala, who had alleged therein that on 21.10.2023, at about 08:00 PM, he along with his friends

Gurwinder Singh, Gursewak Singh, Paramjit Singh and Shivcharan Singh were going to their village after paying obeisance at Golden Temple, Amritsar on their Verna Car No. PB11-DC- 2370 and on 22.10.2023 at about 12:45 AM, when they reached near Gurwinder Motor Garage. Tangra, three youngsters threw the aforesaid motorcycle in front of their car and one of them fired a shot on the front side of their car and the shot hit him at his right elbow. He further alleged that the other two youngsters started breaking the glass of driver side of the car and when he and his friends came outside the car, the aforesaid youngsters snatched their Verna car and fled away towards Jandiala side with his mobile (iphone) left in the car. He further alleged that he could identify the aforesaid unidentified persons, who had fired upon him if brought before him. The detailed facts mentioned in the aforesaid statement have been reproduced in the true translation of the FIR No. 82 dated 22.10.2023 attached the petition as Annexure P-1, which may kindly be read as part of present paragraph as same are not repeated here for the sake of brevity.”

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:

“Role of the petitioner

10. *That as per the prosecution version, the petitioner in active connivance and conspiracy with the co-accused Raghbir Singh alias Bir and Baljinder Singh had committed snatching of car in the intervening night of 21/22.10.2023 by using firearms from the complainant Harpreet Singh and his friends. The petitioner and co-accused Raghbir Singh alias Bir were armed with pistols and they had fired shots at the complainant and his friends while the snatching of the aforesaid car.*

Evidence Against the petitioner

11. *That the prosecution evidence against the petitioner is in the shape of the statements of the complainant Harpreet Singh and his friends Gurwinder Singh, Gursewak Singh, Paramjit Singh, and Shivcharan Singh recorded by the investigating officer under section 161 Cr.P.C. and the disclosure statements suffered by the petitioner and co-accused with respect to their involvement in the commission of offences with connivance with each other.”*

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 7 of the bail petition, the petitioner has been in custody since 29.11.2023. Per the custody certificate dated 10.09.2024, the petitioner's total custody in this FIR is 9 months and 7 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 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.

14. 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."

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

16. 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.

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

(ANOOP CHITKARA)
JUDGE

27.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.