

CRM-M-40115-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-40115-2024  
Reserved on: 12.11.2024  
Pronounced on: 28.11.2024

Sehajpreet Singh alias S.P. ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Gupta, Advocate  
for the petitioner.  
  
Mr. Akshay Kumar, AAG, Punjab.  
  
Mr. Amit Arora, Advocate  
for the complainant.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                | Sections                                                                              |
|---------|------------|-------------------------------|---------------------------------------------------------------------------------------|
| 26      | 06.03.2024 | Sadar, District Tarn<br>Taran | 302, 307, 506, 34 IPC (201,<br>120B, 109 IPC added later<br>on) and 25/27 of Arms Act |

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 12 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:

*“4. That the true facts leading to this case are that complainant Gurjit Singh @ Geetu son of late Jaswinder Singh, resident of village Pandori Gola, District Tarn Taran got recorded his statement before the investigating officer to the effect that he is serving as Constable in Punjab Police, District Tarn Taran since 28.02.2024. His father expired about four years back and his elder brother is Gursewak Singh and younger to him is Gurpreet Singh @ Gopi who is serving in Army. His elder brother Gursewak Singh runs a confectionery shop and is also a driver of Mount Litera School, Pandori Gola and that complainant had gone to his neighbourhood to the house of Kewal Singh son of Gulzar Singh for some work and his brother Gursewak Singh and his wife Karamjit Kaur and*

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*other family members were in the house. He and Kewal Singh were conversing outside the house of Kewal Singh and on 06.03.2024 at about 5/5:15 PM, when splendor motorcycle was seen coming which was driven by Sam son of Gurjinder Singh, resident of Gali Jandpeer Mohalla Muradpura, District Tarn Taran and Rohit Kumar @ Sumo son of Satinder Kumar was pillion riding it and they had 12 bore pump action rifle. One more person namely Jagdish Kumar @ Tata son of Satinder Kumar was also pillion riding it who too had a 12 bore rifle in his hand. They were raising lalkara and crossed him as well as Kewal Singh and stopped their motorcycle in front of the shop of his brother and started damaging it. Sam started throwing bricks at the shutter of the shop and Jagdish Kumar hit the shutter with the rifle, which he was carrying. On hearing the noise, Gursewak Singh came out of the house and Sam raised a lalkara that he should be taught a lesson and Rohit Kumar fired at his brother. Luckily, the gun shot did not hit his brother. Thereafter, Rohit Kumar fired another gun shot at Gursewak Singh which hit on the right side of the chest of Gursewak Singh and he fell down. Jagdish Kumar @ Tata fired with his rifle towards complainant but he saved himself by running inside the house of Kewal Singh. On hearing the chaos, inhabitants of the street came out and seeing them, the accused ran away with their respective weapons and giving threats. He and Kewal Singh arranged the vehicle and took Gursewak Singh to Hospital, but the doctor declared him as dead and in this regard, the present case FIR No.26 dated 06.03.2024, under section 302/307/506/34 of IPC & 25/27 of the Arms Act has been registered at Police Station Sadar Tarn Taran, District Tarn Taran against the co-accused namely Rohit Kumar, Sam and Jagdish Kumar.”*

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 THE PETITIONER:***

*9. That as far as role of the petitioner is concerned, it is submitted that the petitioner in connivance with co-accused have committed murder of deceased Gursewak Singh and further, the petitioner has supplied fire arms to the co-accused with which the gun shots were fired and it resulted into death of Gursewak Singh, as such, the offence which is committed by the petitioner is heinous in nature and the same is not offence against any individual person rather the same is offence against society at large, hence the petitioner is certainly not entitled to concession of regular bail. Moreover, after release on bail, the above said petitioner can tamper with the prosecution evidence and there is every chance that he can commit same kind of offence in future.*

***EVIDENCE AGAINST THE PETITIONER:***

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*10. That as far as evidence against the petitioner is concerned, it is submitted that during the course of interrogation of the co-accused, they voluntarily suffered their disclosure statement before the investigating officer and specifically leveled allegations against the petitioner that he has supplied the fire arms weapons to them with which they have committed murder of deceased Gursewak Singh. Moreover, during the interrogation of the present petitioner, he has also admitted the above said fact and made disclosure statement by stating that he was having two stolen weapons i.e. 12 bore pump action gun along with 2 live cartridges and one 30.06 bore bolt action rifle along with 1 live cartridge and both the said weapons have been given by him to Jagdish Kumar alias Tata on 06.03.2024. Moreover, the weapons used in the commission of offence have also been recovered in the present case. As such, there is sufficient evidence against the petitioner and he has committed the heinous offence and he is certainly not entitled for the concession of regular bail.”*

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

8. The petitioner's counsel refers to para 3 of the petition, which reads as follows:

*“3. That at the very outset it is pertinent to mention over here that all the allegations levelled on the petitioner are false, frivolous and far from the truth. The present petitioner neither indulged nor participated in the alleged occurrence in any manner nor he was instrumental in the procurement of alleged weapons allegedly used in the occurrence. The contention of the petitioner is further corroborated by the fact that the then Senior Superintendent of Police, Tarn Taran while addressing the Press stated that the weapons used in the alleged occurrence were purchased by the accused persons (co-accused) from by one Angrej Singh for Rs. 10,000/- but thereafter instead of nominating Angrej Singh, the petitioner has been falsely nominated in the present case even without an iota of evidence against him on the record.”*

9. However, this Court is not inclined to consider this submission because the petitioner has made out a case for bail on the grounds mentioned above.

10. As per paragraph 6 of the bail petition, the petitioner has been in custody since 16.03.2024. Per the custody certificate, the petitioner's total custody in this FIR is 07 months & 17 days.

11. 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.

12. The investigation indicates that the petitioner is not the main accused, so the

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petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

13. 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.

14. 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.

15. 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)                                                                                                             |  |

16. 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.

17. 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.

18. 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

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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.

19. 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."

20. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

22. 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.

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

(ANOOP CHITKARA)  
JUDGE

28.11.2024  
anju rani

Whether speaking/reasoned: Yes  
Whether reportable: No.