

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.41390 of 2024
Reserved on: 15.10.2024
Pronounced on: 19.10.2024

Ramandeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vipul Aggarwal, Advocate
for the petitioner.

Mr. Rubal Pawar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
166	21.09.2023	Sadar Ferozepur, District Ferozepur	307, 459, 342, 34 IPC, 1860 and 25, 27 of Arms Act, 1959 (Sections 201, 506, 120-B IPC, 1860 added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.

2. Per paragraph 17 of the bail application, the petitioner has mentioned his involvement in one more FIR, however, as per reply and custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	137	10.10.2018	Under sections 25, 27 of Arms Act and 307, 34 IPC	Komoj 17 Amritsar
2.	209	02.11.2018	Under section 25 of Arms Act	Sadar Police Commissionerate Amritsar
3.	35	01.02.2019	25, 22 of NDPS Act	Sadar Police Commissionerate Amritsar
4.	191	26.04.2021	420, 120-B IPC and 42, 52-A of Prisons Act	Sadar Police Commissionerate Amritsar
5.	305	29.06.2020	42, 52-A of Prisons Act	Sadar Police Commissionerate Amritsar
6.	396	29.08.2020	42, 52-A of Prisons Act	Salmabad, Police Commissionerate Amritsar

7.	9	04.01.2022	42, 52-A of Prisons Act	Salmabad, Police Commissionerate Amritsar
8.	185	08.06.2022	52-A of Prisons Act	City Ferozepur
9.	132	13.11.2023	302, 307, 323, 324, 148, 149, 212, 216, 120-B IPC and 25, 27 Arms Act	Division Police Commissionerate Amritsar
10.	438	29.09.2020	427, IPC, 52 Prisons Act	Islamabad
11.	253	19.09.2019	42, 52-A of Prisons Act	Islamabad
12.	180	10.10.2023	307, 353, 186, 34 IPC	Sadar Ferozepur

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

“3. That in compliance to the Order dated 02.09.2024, it is most respectfully submitted that FIR No.166 dated 21.09.2023 under Sections 307, 459, 342 and 34 of IPC and Sections 25/27 of Arms Act (Section 201, 506, 120-B IPC, 1860 added later on) Police Station Sadar Ferozepur, District Ferozepur was registered on the statement of Harpreet Kaur wife of Late Nishan Singh son of Jasvir Singh, R/o village Assal, Police Station Sadar, Ferozepur against unknown persons, on the allegations that she was married about 10 years ago with Nishan Singh Rio Assal. From this marriage, they were blessed with two children i.e. son aged about 5 years and daughter aged about 8 years. Her husband Nishan Singh expired in the year 2018. Now she with her both children, her mother in law and sister in law namely Amandeep Kaur @ Mannu Baba are residing together. She and her mother in law along with her children were sleeping in one room and in another room, her sister in law namely Amandeep Kaur @ Mannu Baba was sleeping and their servant namely Jashan was sleeping in the cattle hut. On the intervening night of dated 20/21.09.2023, time at about 01.00, two unknown persons armed with pistol entered into their house after climbing over the wall and entered into their room and took away the mobile phones of the complainant Harpreet Kaur, her mother in law (Gurmeet Kaur) and her daughter and thereafter, locked the complainant and her children in the bathroom and fired shots upon Gurmeet Kaur (mother in law). Upon hearing the noise of fire shots, the complainant with her children raised hue and cry and Amandeep Kaur alias Manu Baba (sister in law), who was sleeping in her separate room came out and unlocked the complainant with her children and after coming out of the bathroom, they found that Gurmeet Kaur (mother in law) was lying on the floor of the lobby of the house having suffered a gunshot injury on her chest and blood was oozing.”

4. The petitioner's counsel prays for bail on parity with four similarly placed co-accused 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:

“10. That the present petitioner was arrested in this case on 26.02.2024 and during interrogation, he admitted that he alongwith co-accused Sher Singh alias Shera, R/o Bhaini Nangal, PS:Maboian District Shri Amritsar had a fight with Laddi etc. of Shri Amritsar Sahib in the year 2023. He further admitted that at that time, he was

having a 30 bore pistol and after the fight, he handed over the said pistol of Sher Singh alias Shera and Sher Singh alias Shera was apprehended by the Police of Police Station Division, Shri Amritsar sahib and the said pistol was recovered from him. He further admitted that the said pistol and other ammunition was provided to them by co-accused Raja alias Mama son of Kashmir Singh, R/o Jora Phatak Chali Khuh, Amritsar. He further admitted that one 30 bore pistol is to be given by him to Sher Singh and the said ammunition was provided by their group member Mama alias Raja son of Kashmir Singh and they completed different tasks on his asking. Thus on the basis of the said statement, Sher Singh and Raja alias Mama s/o Kashmir Singh, r/o Amritsar were nominated as accused vide rapat no.22 dated 27.02.2024.

Role of Petitioner

That as per the allegations against the petitioner, Daler Singh co-accused admitted that the revolver used in the occurrence was supplied to him by the present petitioner.”

7. The petitioner was named during the interrogation, and no injury was attributed to him. The pistol was also stated to be recovered from the co-accused.

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. However, per paragraph 9 of the bail petition, the petitioner has been in custody since 26.02.2024. Per the custody certificate dated 14.10.2024, the petitioner's total custody in this FIR is 07 months and 18 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, subject to the compliance of terms and conditions mentioned in this order.

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 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.

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 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

19.10.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.