

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42806-2024
Reserved on: 08.11.2024
Pronounced on: 14.11.2024

Gurpreet Singh @ Gopi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Surinder Kaur, Advocate
for the petitioner.

Ms. Swati Batra, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
101	31.10.2023	Sadar Kapurthala, District Kapurthala	302, 307, 506, 148, 149 IPC and 25, 27, 54, 59 of Arms Act (Section 201 IPC added later on)

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 22 of the bail application, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	56	23.04.2019	307, 336, 148, 149 IPC and 25 of Arms Act	Sadar, Kapurthala
2.	120	30.10.2019	307, 323, 324, 451, 427, 336, 506, 148, 149 IPC and 25, 54, 59 of Arms Act	Lohian, Jalandhar
3.	83	03.07.2022	399, 402 IPC and 25, 27, 54, 59 of Arms Act	Lohian, Jalandhar
4.	138	20.12.2023	25, 54, 59 of Arms Act	Sadar, District Moga

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

“4. That complainant has stated that on 30.10.2023 at about 07:30 p.m. complainant Tarsem Chand alongwith his son

Vijay Kumar @ Cheeku and Ranjit Singh were standing near park of the village where his son Vijay Kumar received a telephonic call of Rajvir Singh who warned him to be strong as he is coming to see him. At the same time the complainant also received a phone call from Raj Kumar who threatened him that they will not spare his son Vijay Kumar. After hearing this, complainant and others started moving towards their house.

5. That complainant has further stated that Lovepreet Singh armed with Pistol, Ashok Kumar armed with pistol, Rajvir Singh armed with Datar, Deepak Gill @ Deepu armed with Datar, Jaswinder Singh @ Jassa armed with Datar, Raj Kumar @ Raja along with five/six unidentified persons came there on some motorcycles and a Scorpio car bearing no. PB-29-W-5100 of white colour. Lovepreet Singh fired direct shots from his pistol with intent to kill his (complainant) son which hit on abdomen of his son and he fell down on the ground."

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:-

"17. That there are specific allegations against the petitioner and co-accused in committing murder of deceased in well planned manner and petitioner actively participated in the occurrence, it is pertinent to mention here that petitioner was nominated in the present FIR on the basis of disclosure statement of co-accused accused Lovepreet, Ashok Kumar, Deepak Gill, accused Harman Singh and petitioner was rightly nominated in present case, moreover on the basis of disclosure statement of petitioner, accused Sucha Singh and Mangal Singh were nominated in the present case which testifies the involvement of petitioner in occurrence of present case thus present petition is liable to be dismissed.

18. That there is sufficient evidence against the petitioner as petitioner has been nominated as accused in the present case on the basis of disclosure statement of co-accused Lovepreet, Ashok Kumar, Harman Singh which testifies the presence of petitioner at place of occurrence hence petitioner is not entitled for relief of bail thus present petition is liable to be dismissed."

7. The status report filed by the police reveals that the investigator arraigned the petitioner as an accused based on the disclosure statement of the main accused. No other evidence is collected at this stage to connect the petitioner with the main accused. Thus, there is no justification to deny bail.

8. Per paragraph 16 of the bail petition, the petitioner has been in custody since 04.01.2024. Per the custody certificate Annexure R-1, the petitioner's total custody in this FIR is 09 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 for further pre-trial incarceration at this stage.

9. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

10. 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.

11. 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.

12. 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)	

13. This order is subject to the petitioner's complying with the following terms.

14. 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.

15. 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.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
17. 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.
18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

14.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.