

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43551-2024
Reserved on: 07.11.2024
Pronounced on: 12.11.2024

Karandeep @ Krishan ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vishal Sharda, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
123	26.06.2023	Mandi Gobindgarh, District Fatehgarh Sahib	395/411 IPC and 25/54/59 of Arms Act (Section 411 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 16 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Year	Offenses	Police Station
1	159	2022	363 IPC	Sangam Vihar, District South Delhi

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

“3. That the present FIR No. 123 dated 26.06.2023, was registered at Police Station Mandi Gobindgarh, District Fatehgarh Sahib, based on the basis of statement of the complaint of Jasvir Singh, who to the effect that;
(i) He is engaged in the scrap business under the name Gaurav Traders, located opposite Shivam Kanda, Amlah Road, Mandi Gobindgarh. His office and godown are attached, where he conducts his monetary transactions. On 23-06-2023, after collecting cash from the scrap sale, he brought the same to his

office. After placing the cash in the cupboard, he remained seated in his office. At around 10:30 PM, while he was in his office, 5 persons entered, two of whom were holding what appeared to be pistols. Upon entering, they threatened him, stating that they were aware of the money he had brought and demanded the entire amount, threatening to kill him if he did not hand over the money.

ii) That the complainant further stated that said persons called each other with the names Salman Khan, Karan Deep (present petitioner) and Raj Kumar. The complainant stated that he did not know the names of the remaining two individuals. That these persons started questioning him about the money, and out of fear, the complainant informed them that the cash was kept in the cupboard. Thereafter, the said individuals took the cash he had collected from the scrap sale from the cupboard, placed it in a bag, and also took a poco mobile phone lying on the table. After issuing further threats, they looted the money and fled from the place of occurrence. Hence, on the basis of statement, the present FIR was registered 395 IPC and section 25 Arms Act Karndeeep (present petitioner), Salman Khan, Raj Kumar and two unknown persons.

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

11. That the petitioner Karandeep Singh @ Karan, played an active role in the commission of the offence, whereby on 23-06-2023, the petitioner, along with his co-accused, forcibly entered the premises of the complainant with weapon, threatened him with a weapon, and looted a sum of Rs. 12,00,000/- in cash along with a mobile phone. The complainant identified the petitioner as one of the perpetrators at the time of the incident. Upon the arrest of the petitioner on 28-06-2023, he made a disclosure statement, leading to the recovery of Rs. 1,00,000/- and a weapon used in the commission of the offence.

12. The petitioner, Karandeep alias Krishan, committed dacoity of Rs. 12 lakhs in cash and a mobile phone from the complainant, Jasvir Singh, along with his accomplices. The petitioner actively participated in the offence, using a deadly weapon to threaten the complainant, forcibly taking the cash, and committing dacoity. Following the commission of the offence, the petitioner retained a portion of the stolen property, from which Rs. 1 lakh was recovered upon his arrest. Additionally, he spring loaded knife. Additionally Rs. 5,20,000 were recovered from a location disclosed by the 2024. petitioner and co-accused Salman.

EVIDENCE AGAINST THE PETITIONER

13. That the evidence against the petitioner includes;

(i) The complainant's positive identification of the petitioner at the time of arrest.

(ii) The recovery of Rs. 1 lakh from the petitioner's possession.

- (iii) *The recovery of Rs. 5,20,000 from a location identified by the petitioner and co-accused Salman.*
- (iv) *The recovery of the knife used during the dacoity, which was disclosed by the petitioner."*

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. Per paragraph 10 of the bail petition, the petitioner has been in custody since 26.06.2023. Per the custody certificate dated 06.11.2024, the petitioner’s total custody in this FIR is 01 year, 04 months and 06 days.

9. 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.

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. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the victim's property, workplace, and residence 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.

16. 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.

17. 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."

18. 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.

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

20. A certified copy of this order would not be needed for furnishing bonds, and any

CRM-M-43551-2024

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.

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

(ANOOP CHITKARA)
JUDGE

12.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.