

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44664-2024
Reserved on: 04.11.2024
Pronounced on: 12.11.2024

Mohit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr Viney Phogat, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
002	02.01.2021	Gannaur, Sonipat	379-B, 392, 395, 397 IPC and Section 25 of Arms Act

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 12 of the bail application and status report filed by the State, the accused has the following criminal antecedents:

Sr. No	FIR No.	Dated/ Year	Offences	Police Station
1	152	2021	455/392/342 IPC and 3/25 of Arms Act	Bhiwadi Alwar
2	162	10.05.2021	302/201/34 IPC	Matlauda, District Panipat
3	302	15.09.2016	148/149/323/307/379-B IPC	Beri
4	326	05.01.2016	25/54/59 of Arms Act	Beri
5	414	2017	379 IPC	Kharkhoda
6	743	22.08.2017	186/353/307 IPC and Section 25/54/59 of Arms Act	Jhajjar
7	289	01.08.2017	148/149/427/452/307 IPC and Sections 25/54/59 of Arms Act	Beri
8	225	08.03.2021	379-B/392 IPC and Sections 25/54/59 of Arms Act	Kharkhoda
9	747	23.08.2017	302/365/201/34 IPC	Jhajjar
10	219	2021	379-A	Kharkhoda
11	120	13.04.2021	379-B/392/411/212/34 IPC and Sections 25/54/59 of Arms Act	Murthal

12	37	09.02.2021	379-B/392/397/452/506 IPC and Sections 25/54/59 of Arms Act	Murthal
13	51	2021	120-B/212/365/379/392/397 IPC	Murthal

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

“3. That the brief facts of the case are that on 02.01.2021 information was received at Police Station Ganaur that three boys on a motorcycle had fired in the air and looted cash at Ganga Filling Station Ganaur. On this information investigating officer reached at the spot where Joni son of Ram Mehar resident of village Peer Garhi District Sonipat salesmen presented his complaint stating that he is resident of above address and working at Jai Ganga Filling Station, Ganaur and filled oil in the vehicles. On the date of incident at about 9.00 P.M. three boys came on the splendor motorcycle without number place and seized his bag consisting of Rs. 3,000/- Out of them one had fired in the air. All the three boys were covering their faces. He could identify them if produced before him and sought action against those 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:

“15. That there is sufficient evidence against the petitioner to connect him with the commission of above mentioned offence, He had actively participated in the conspiracy hatched by co accused. The petitioner along with co accused Sumit @ Bhanja and Deepak residents of Murthal went with muffled faces to Jai Ganga Filling Station at Ganaur on 02.01.2021 at about 9 PM. There, he not only looted the bag from the salesman of Jai Ganga Filling Station, but also, fired in the air for terrorizing the victim and others working there. In his disclosure statement the petitioner has admitted his guilt and also demarcated the place of occurrence.”

7. However, two accused, namely Sarik and Sawab, who were put to trial, were acquitted vide judgment dated 03-06-2023 (Annexure P-3). Given the above, 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 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.

14. 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.

15. 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."

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

12.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.