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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.45122 of 2024
Reserved on: 18.10.2024
Pronounced on: 29.10.2024

Harjiwan Singh @ Jassa Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.K. Singla, Advocate and
Ms. Suman Rana, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
142	31.10.2023	Raman District Bathinda	25 sub section 7 & 8 of Arms Act, 1959 and 384, 120-B IPC (Act No.45 of 1860)

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 11 of the reply filed to the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	84	17.07.2024	Under sections 308(4), 61(2) BNS	Bareta, District Mansa
2.	5	28.01.2023	Under section 387 IPC and 25, 7, 1, 54, 59 Arms Act	Cheema, District Sangrur
3.	135	02.08.2022	Under section 379B, 34 IPC	Bhikhi, District Mansa
4.	143	09.08.2022	Under section 379-B,34 IPC	Bhikhi, District Mansa
5.	118	13.07.2022	Under sections 341, 323, 506, 427, 148, 149 IPC	Bhikhi, District Mansa
6.	45	19.02.2022	Under sections 308, 323, 341, 148, 149 IPC	Bhikhi, District Mansa



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

"4. That on 31.10.2023, at about 4:20 PM the police party was on patrolling in search of suspected persons. At about 4:20 PM, when the police was present at village Gatawali Bus Stand, ASI Jarnail Singh received a secret information that the accused Arshdeep Singh @ Arsh Dalia, resident of Canada, who had previously committed many more serious crimes like extortion, dacoity etc. in the Punjab region, is now trying to commit extortion by demanding money from a person within the area of District Bathinda, in connivance with his gang members including the accused-petitioner Harjiwan Singh @Jassa and Paramjit Singh @ Pamma. The informer further disclosed that the accused- petitioner and the co-accused Paramjit Singh were conspiring to demand extortion money from some person belonging to District Bathinda on the instructions of Gangster Arshdeep Singh @ Arsh Dalla and they were still roaming near village Giana with intent to commit some serious crimes in the area using assault weapon and if they (the accused-petitioner and accomplice) be nabbed and searched, the illegal weapons along with ammunition may be recovered from their possession and commission of serious crimes may be averted.

On the basis of the aforesaid credible information, the FIR in question was registered against the accused-petitioner, Arshdeep Singh @ Arsh Dalla and Paramjit Singh @ Pamma and the investigation was set-forth instantly and in order to nab the accused-petitioner and the co- accused, the police party set-forth from village Gatwali to Giana as per the aforesaid secret information, and when the police party was about half KM behind from the village Giana, they saw that the accused-petitioner was standing at the right side of the road under suspicious circumstances, who perplexed upon seeing the police party and tried to run away from the spot. The police party nabbed the accused-petitioner. The accused-petitioner was asked his whereabouts, then the accused- petitioner disclosed to the police about his name, residence etc.

The police party tried to join a private witness on spot, but no private witness could be joined despite possible efforts by the police. The search of the accused-petitioner was conducted and one 32 bore country made pistol with 2 live cartridges in magazine and one 30 bore country made pistol with 2 live cartridges in magazine, were recovered from the possession of the accused-petitioner."

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:

"12. That from the investigation conducted so far, it has been established that the accused- petitioner and the co-accused Paramjit Singh @ Pamma, Lovejeet Singh @ Lavi, Kamaljeet Singh @ Kamal, Harjinder Singh @ Gullu, Avtar Singh @ Tari, Sandeep Singh @ Maloatia and Jasvir Singh @Jassi were hatching a planning with intent to extort money from some innocent person within the area of District -Bathinda and for executing the illegal activity of extortion, the instruction was to be given by the gangster Arshdeep Singh @ Arsh Dalla and the name of the said person (prospect victim) was to be disclosed to the accused-petitioner and co- accused by the accused Arshdeep Singh @ Arsh Dalla at later stage. Furthermore, on the day of occurrence, the accused-petitioner along with co-accused, was roaming near the village Giana with intent to commit serious crime, by using the assault weapons and ammunition, as per instruction of gangster Arshdeep Singh @ Arsh Dalla. The accused-petitioner was arrested alongwith a 32 bore country made pistol with 2 live cartridges in a magazine and a 30 bore country made pistol with 2 live cartridges in a magazine, which were recovered from his conscious possession of the accused-petitioner and the same was taken in police possession by way of separate recovery memos."

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. However, per paragraph 6 of the bail petition, the petitioner has been in custody since 31.10.2023.

8. Per the custody certificate dated 17.10.2024, the petitioner's total custody in this FIR is 11 months and 14 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.

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 Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned



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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



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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

29.10.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.