

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45780-2024
Reserved on: 16.10.2024
Pronounced on: 28.10.2024

Dharam Raj Bora ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Dhawaljeet Dutta, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0043	14.05.2023	Division No.1, District Pathankot	457, 381, 328, 427, 120-B IPC (Section 307 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. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:-

“3. The brief facts of the case are as under:-
i. That initially the FIR bearing no 43 dated 14-05-2023 U/s 457, 381, 427, 120-B IPC was got registered at P.S. Division no-1. Pathankot on the statement of the complainant Madhu Sudan. Against one Harish R/o Nepal and five unknown persons.
ii. That the complainant stated that he had received a phone call from Naresh Kumar son of Kishan Dev Sharma, Mohalla Ahria Shahpur Chownk, Pathankot on 14-05- 2023 at about 9:00 AM who told him that he went to the House of Munish Podar son of Om Prakash Podar resident of Mangalam Mission Road Pathankot and saw that the mother of Munish Podar namely Gayatri Devi wife of Om Prakash Podar resident of Mission Road and their Guard namely Prem son of Raghubir Singh resident of village

Bungal were in unconscious stage. On hearing this the complainant went to their house immediately as he is having family relations with Munish Podar, when he reached at the Kothi of Munish Podar then at about 9:15 AM he went inside and saw that the mother of Munish Podar namely Gayatri Devi and Guard Prem son of Raghubir Singh were in unconscious stage and locks of the door of the Kothi were broken and the household things were scattered.

iii. On dated 13 05 2023 in the night the servant of Munish Podar namely Harish who is the resident of Nepal and working in the kitchen for last few months with 5-6 unknown persons committed theft of cash and jewellery by breaking the locks of the door of the Kothi of Munish Podar the said person have committed the theft of Lacs. The said complainant had arranged vehicle for Gayatri Devi and admitted him to Amandeep Hospital where she is under treatment.

iv. That on the behalf of above said statement above mentioned FIR was got registered against Harish and other five unknown persons. During police investigation three accused persons namely Ravinder Kumar, Raj Kumar and Kamal Singh Raghav were nominated and were arrested in the present case on dated 17-05-2023. During the Course of investigation, the said three accused persons had made confession statement before the police admitting their guilt and describe the matter in which they alongwith the other persons namely Harish, Deepak Bahadur Bora, Dharam Raj Bora (Present Petitioner), Karishma Kumari Khati, Hikmat Khadka, committed the offence in the house of Gayatri Podar on the intervening night of 13/14-05-2023 as the persons who had the knowledge and assisted the offender namely Harish and others in the commission of the crime. During the inquiry it was found that there are total eight accused involved in the commission of the offence. The accused persons namely Deepak Bahadur Bora, Dharam Raj Bora (Present Petitioner), Karishma Kumari Khati, Hikmat Khadka were nominated vide GD no 42 dated 19- 05-2023. Later on after obtaining the opinion of the doctor in the present case offence under Section 307 IPC enhanced vide GD no 28 dated 16-08-2023.”

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:

“Role of the Present Petitioner. Petitioner along with other co-accused had played active role in the commission of the offence. He had made confessional statement before the police on 15-08- 2023 that, "He along with Hikmat Khadka, Deepak Bora, Karishma

Khathi, Harish Rukaya and Khem Raj all residents of Nepal had conspired to commit a big theft. In this regard the Khem Singh had used his links with Raj Kumar and the said Raj Kumar got placed the Harish Rukaya as a cook at Pathankot in the house of the victims Munish Podar by using his placement agency. The Harish sent the complete details of the house to the accused persons, then accused Deepak Bora told the whole plan to Ravinder Kurnar, then Ravinder Kumar arranged a vehicle of Kamal Singh Raghav for approaching Pathankot. He further confessed that they had sold the whole of the stolen gold to Depinder Jeweller R/o Dhankhadi, Nepal and Santosh Kumar resident of Nepalganj and got Rs 1 Crore 90 lakhs in Nepal currency for the same. He further confessed that they spent a lit bit of the said amount and thereafter divided the same into each parts of Rs 33 lakhs. He further confessed that they also divided the cash amount equally i.e. 4.5 lakhs each between five persons, after spending some out of the cash stolen from the house of Munish Podar and Hikmat khadka kept the Pistol. When we are heading for Nepal then we had received phone calls even before reaching Delhi that police had reached their homes in searching for them, then they released the vehicle of accused Kamal Singh Raghav and arranged for other vehicle and left for Nepal through Gauri Fanta side from India and buried the remaining amount in polybags in the fields behind the house of Dil Bahadur, Friend of Hikmat Khadka, which he can got recovered on his disclosure. He further admitted that we had to give the share of Raj Kumar, Kamal Singh Raghav and Ravinder Kumar, but you people got them arrested."

7. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

9. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

28.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.