

CRM-M-47595-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47595-2024
Reserved on: 06.11.2024
Pronounced on: 14.11.2024

Vikramjeet Singh alias Vicky ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Piyush Setia, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
63	24.08.2023	Khui Khera, District Fazilka	323, 341, 148, 149, 326, 325 IPC

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 4 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:

“4. That it is respectfully submitted that the brief facts of the case are as under:-

a) The present FIR was registered as per the statement of complainant Manjeet Singh wherein he stated that at about 7:30 PM on 22.08.2023, the complainant along-with Avtar Singh son of Sarwan Singh of his village were filling water from the water tap at the gate of water works of their village when petitioner/accused Vikram Singh @ Vicky armed with sword, co-accused Babbu armed with "Kappa", Karan Singh @ Baggi armed with base ball, Vijay Kumar armed with "Kappa", Gori armed with stick, Sonu armed with base ball, Gagandeep Singh armed with iron rod fitted with iron flywheel, came to the spot and petitioner Vikramjit Singh @

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Vicky raised exhortation and inflicted blow with his sword hitting left arm of the complainant as he raised his arm in protection. That accused Karan Singh inflicted blow with base ball, also on left arm of the complainant, Gori inflicted blow with stick upon waist of the complainant, who raised hue and cry and his brother Gurwinder Singh tried to come to his rescue and accused Gagandeep Singh inflicted blow with his iron rod fitted with flywheel on waist of Gurwinder Singh, Sonu inflicted blow with base ball on left arm of Gurwinder Singh, petitioner Vikramjit Singh @ Vicky inflicted blow with sword on the left wrist of Gurwinder Singh and accused Karan Singh @ Baggi inflicted blow with base ball on head of Gurwinder Singh and Gagandeep Singh inflicted another blow with his rod on left shoulder of Gurwinder Singh. That complainant and Gurwinder Singh raised hue and cry and Avtar Singh son of Sarwan Singh tried to rescue them and he was also beaten by the accused party and thereafter accused fled from the spot. That accused committed the occurrence petitioner account on was of the fact that elected president of Waheguru College, Abohar and was roaming in the village along with other boys creating commotion and complainant had sought to restrain them from doing so.”

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 PETITIONER:

5. That it is respectfully submitted that role of petitioner in commission of offence is that the petitioner member was of the group of assailants who attacked the complainant party while being armed with deadly weapons and inflicted injuries to the complainant party. Injury No.1 of complainant and Injury No.1 of injured Gurwinder Singh (which were declared 'Grievous' in nature) have been attributed to the petitioner. Therefore, the petitioner cannot shirk his criminal liability.”

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. As per paragraph 3 of the bail petition, the petitioner has been in custody since

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27.07.2024 and accordingly his custody in this FIR is 3 ½ months approximately. 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. 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. 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 (CrI.) 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

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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.

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

14.11.2024

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Whether speaking/reasoned: Yes

Whether reportable: No.