

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-48316-2024
Reserved on: 07.11.2024
Pronounced on: 12.11.2024

Vijay ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sahil Choudhary, Advocate
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
843	02.10.2022	Smalkha, District Panipat	148/149/302/506/34/120-B IPC and 25/54/59 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439, 1973, seeking regular bail.
2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“(i) That on 02.10.2022, ruqa was received from Government Hospital, Samalkha that Manoj S/o Ajit has been brought dead in the Hospital. On receiving ruqa, police party reached at Government Hospital, Samalkha where Bijender S/o Deep Chand (uncle of deceased) presented a written complaint. The contents of the complaint are as follows:-

"To. SH.O, P.S. Samalkha Respected Sir. I, Bijender S/o Deep Chand and I am resident of Kuhar Pana, Samalkha, I am an agriculturist. On 01.10.2022 in the afternoon my nephew, Manoj S/o Ajit Rio Kuhar Pana told me that on 30.09.2022, during 'Ramlila', Himanshu S/o Rakesh, Sahil and Rustam etc. abused me and that on 01.10.2022 me and my nephew Sagar s/o Karambir, both of us after watching 'Ramlila' were going to our house through Bhadbhuja Gali. After going a long distance in the Gali at about 10:30 P.M, some persons were beating my nephew Manoj S/o Ajit. When I and Sagar raised our voices, Himanshu @ Ishu s/o Rakesh

stabbed Manoj on his sides and waist with a knife which was in his hand, then Sahil s/o Randhir stabbed Manoj with a knife on his waist, then Romi struck Manoj on his hands with knife and then Rustam @Chota struck Manoj with a Ice Pick (Sua) and even others beat Manoj. That Sagar and I tried to catch them but everyone fled with their weapons who threatened that whoever comes in between will be murdered. Sagar and I took Manoj on motorcycle and admitted him in the Govt. Hospital Samalkha where Doctor declared Manoj as brought dead. Himanshu@ Ishu, Sahil s/o Randhir, Romi grandson of Randhir, Rustam @ Chota (s/o maternal uncle of Ishu) and some other residents of Balmiki Basti, Samalkha have murdered Manoj and that strict action should be taken, against them."

On the basis of said complaint and nature of crime, a formal FIR No. 843 dated 02.10.2022 under sections 302, 148, 149 and 506 of IPC (Section 120-B of IPC and Section 25 of Arms Act were added later on), was registered at P.S Samalkha, District Panipat."

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:

9	Vijay S/o Jaswant (Petitioner)	08.10.2022	Statement of complainant dated 04.10.2022	He was found present on the crime spot and was armed with sword on the date of incident. He gave lalkara on the date of incident	Sword
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"3. That the role of the petitioner is that his name surfaced in this case from the supplementary statement of complainant. Annexure R-2. On 30.09.2022, co-accused Himanshu had verbal arguments with the deceased, and they had exchanged abuses with each other during the event of Ramlila. Thereafter, the deceased left from there, as the accused persons had threatened him to kill if he did not leave from there. On 01.10.2022, accused Himanshu and deceased again met at Golden Park, Samalkha, where they had verbal arguments with each other, whereupon the petitioner and other co-accused conspired to kill the deceased when he will arrive at the event of Ramlina. In pursuance thereof, they went to the event along with weapons, and when the deceased arrived at the event, they started to surround him, whereupon the deceased started running away to save himself. However, the accused persons caught him at some distance and started stabbing him with their respective weapons. The petitioner gave fists and leg blows to the deceased and was armed with

sword on the date of incident. As a result, the deceased fell on the ground, whereupon co-accused Krish took the knife and stabbed the deceased on his chest, and the deceased succumbed to his injuries on the spot. The petitioner has confessed to his role in crime and got demarcated the crime spot in pursuance of his disclosure statement and also got recovered sword as per his disclosure statement, Annexure R-4.”

7. Two of the star witnesses of the prosecution, namely PW-1 Bijender, uncle (Chacha) of the deceased, and PW-2 Sagar, cousin of the deceased, did not support the prosecution and were declared hostile. Given this, coupled with the fact that no injury was attributed to the petitioner and the other factors peculiar to this case, there would be no justifiability of further pre-trial incarceration at this stage.

8. 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.

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 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.

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's family 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's 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. 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.

18. Any observation made hereinabove is neither an expression of opinion on the

case's merits nor shall the trial Court advert to these comments.

19. 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.

20. **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.