

CRM-M-48590-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-48590-2024  
Reserved on: 07.11.2024  
Pronounced on: 20.11.2024

Tarsem Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Sekhon, Advocate  
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                  | Sections                                            |
|---------|------------|---------------------------------|-----------------------------------------------------|
| 256     | 10.06.2023 | City Barnala, Distt.<br>Barnala | 307, 323, 325, 201, 34 IPC<br>and 52 of Prisons Act |

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking regular bail.
2. As per custody certificate dated 06.11.2024, the accused has the following criminal antecedents:

| Sr. No. | FIR No. | Date       | Offenses                         | Police Station |
|---------|---------|------------|----------------------------------|----------------|
| 1       | 108     | 23.04.2021 | 353/186/506 IPC                  | City Faridkot  |
| 2       | 315     | 16.06.2020 | 323/325/201/379B<br>IPC          | City Barnala   |
| 3       | 281     | 16.07.2019 | 21/27/61/85 of NDPS<br>Act       | City Barnala   |
| 4       | 73      | 07.06.2020 | 21/22/25/29/61/85 of<br>NDPS Act | Dhanula        |
| 5       | 373     | 02.08.2023 | 52A of Prisons Act               | City Barnala   |

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

*“2. The present FIR has been registered on the statement of Raghunandan Dass son of Megh Nath resident of Andrla Dera, Tapa, District Barnala that he along with his son Hemant Kumar @ Madho was confined in District jail, Barnala in some other case. That he along with his son*

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*Hemant Kumar @ Madho used to work in the canteen of District Jail, Barnala. That on 09.06.2023 at about 04.30 PM, when he went to canteen to get something, in the meantime, Tarsem Singh son of Naib Singh (Present Petitioner) also came into the canteen. He (Present Petitioner) was along with his inmate Sukhjit Singh and Daljit Singh and they started picking up milk lying in the canteen, when the complainant asked them that they should wait for his son Hemant Kumar @ Madho and when he will come they can take whatever they want. In the meantime, Tarsem Singh inflicted blows of some sharp pointed weapon on complainant. That the blows hit the complainant on the ankle of his right leg, on the left side of ear and on the back. That his inmates Sukhjit Singh and Daljit Singh also inflicted fist blows to the complainant. As such, complainant sustained injuries on his chest, right hand and legs. That in the meantime, his son Hemant Kumar @Madho came on the spot and he tried to rescue him from the clutches of accused persons. On this, Jail inmate Tarsem Singh (present petitioner) took a chair and smashed it into the wall and take one of the legs of chair and with that leg, inflicted the blow of that leg on the head of his son Hemant Kumar @ Madho with an intention to kill him which hit on the left ear of Hemant Kumar @ Madho as such, his son sustained head injury. That Tarsem Singh present petitioner) inflicted another blow of the damaged leg of the chair on the back of the son of complainant and also inflicted multiple blows on his son. That Jail inmates Sukhjit Singh and Daljit Singh caused injuries to them by inflicting legs and fists blows. That they raised alarm, other inmates and prisoners along with jail officials reached at the spot and rescued them from the clutches of accused persons otherwise they may have caused more injuries to them. That motive behind the occurrence is that his son Hemant Kumar @ Madho and complainant Raghunandan Dass used to work in canteen of district Jail, Barnala and that jail inmates Tarsem Singh (present petitioner), Sukhjit Singh and Daljit Singh wanted to take milk from him free of cost and that they are habitual criminals and that when on 09.06.2023 the complainant stopped them from taking the milk, accused persons in connivance with each other cause injuries to complainant and his son Hemant Kumar @ Madho. On the basis of above statement of complainant Raghunandan Dass, present FIR no.256 dated 10.06.2023 U/s.307, 323, 325, 201, 34 of IPC and Section 52 of Prisons Act, 1894 registered at PS City Barnala against Tarsem Singh son of Naib Singh (present petitioner), Sukhjit Singh and Daljit Singh confined at that time in District Jail, Barnala.”*

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4. The petitioner's counsel makes reference to para 4 of the petition, which reads as follows:-

*“4. That no offence under section 307 IPC is made out against the petitioner as no injury sustained by the complainant or his son has been declared as dangerous to life by the doctor. Even complainant had also not leveled the allegations that the injuries were caused with intention to kill him and as per allegations the Petitioner and other prisoners wanted free milk. It is relevant to mention here that son of the complainant namely Himmat Kumar who is the injured in the present case, had never reported the matter to the jail officials, rather it is heat of movement, both the sides attacked upon each other and petitioner had never cause any injury with intention to kill anyone.”*

5. 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.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

*“7. That the present petitioner is a habitual offender and is convicted in number of cases of similar nature. That in the present case he along with co accused had caused multiple injuries to the complainant and his son on the issue of forcibly taking milk from canteen of jail without paying any price for it. That the present petitioner had caused grievous injury on the vital part i.e. head of the injured Hemant Kumar which resulted in fracture involving the brain area. That the incident resulted in indiscipline in jail premises.”*

8. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act<sup>1</sup>.

9. 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. As per paragraph 6 of the bail petition, the petitioner has been in custody

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<sup>1</sup> Supreme Court of India, in Rabi Prakash v. The State of Odisha, SLP (Crl) 4169-2023, Para 4, decided on 13 July 2023

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since 10.06.2023. Per the custody certificate dated 06.11.2024, the petitioner’s total custody in this FIR is 01 year, 03 months & 17 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie 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.

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.

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. 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.

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

16. 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.

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17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)  
JUDGE

20.11.2024  
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Whether speaking/reasoned: Yes  
Whether reportable: No.