

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.49930 of 2024
Reserved on: 06.11.2024
Pronounced on: 20.11.2024

Anoop ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sanchit Punia, Advocate
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
247	29.04.2024	Barwala, District Hisar	302, 342 and 34 IPC, 1860

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973/ Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 12 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. That brief facts of the case are that on dated 29.04.2024, police got information that Satish Kumar son of Pala Ram was brought dead in MAMC, Agroha after being referred from CHC Barwala due to 11 injuries. Accordingly, the police party reached MAMC, Agroha. After some time, the family members of the deceased came present. Brother of the deceased Monu alias Jony got recorded his statement revealing therein that on 29.04.2024, around 5:00am, he received a call from his brother's mobile number. The caller told him that his brother Satish had barged in their house and inflicted injuries to his parents and the ladies of his family. He asked him to take him back. The complainant told him that he would revert after having a word with the family members. Around 7:00am, he got a phone call from the Barwala police. However, due to some reason, they could not reach Barwala. Thereafter, they got information from the

police as well as Sarpanch that Satish Kumar was brought dead in the hospital. Accordingly, they reached MAMC, Agroha and noticed injuries on the various parts of the body of the deceased. They inquired and came to know that Prem, Anoop (petitioner/accused), Pooja and Bhateri inflicted injuries to his brother after making him a hostage. With these allegations, he prayed to take legal action against the accused. Upon this, an FIR No. 247 dated 29.04.2024 under Sections 302, 342 and 34 of IPC was registered at Police Station Barwala, District Hisar.

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:

"8. That the petitioner/accused recovered one wooden log used in the commission of offence and also demarcated the place of occurrence.

9. That during investigation RFSL, Hisar report dated 22.07.2024 was received and report opined that "Blood was detected on exhibit-2 (Danda), exhibit-3 (Swab), exhibit-4 (Swab) & exhibit-5 (Swab). Blood could not be detected on exhibit-6 (charpai nivar). Exhibit-7a (shirt), exhibit-7b (pant), exhibit-8a (shirt), exhibit-8b (pajami), exhibit-8c (Underwear) & exhibit-9 (Rope) were stained with blood." Copy of RFSL, Hisar report is annexed as Annexure R-4.

11 That as far as the role of the petitioner/accused, it is submitted that the allegations against the petitioner/accused are that he inflicted injuries to the deceased which ultimately proved to be fatal for him. Nevertheless, it is not disputed by the prosecution that accused barged in the house of the complainant in the night and inflicted injuries to the father of the accused, which ultimately led to the registration of the FIR No. 244 dated 29.4.2024 at P.S.Barwala, however, it cannot be ignored that deceased sustained 11 (as per PMR) injuries including abrasion, lacerated wounds, puncture wounds on all parts of the body, which ultimately proved to be fatal for him."

7. The petitioner or his family members informed the complainant about the intrusion; however, the complainant did not take any steps which shows they were aware of the deceased Satish Kumar's activities because of his mental health condition. Even when the police called him, he did not go, which corroborates that he must be fed up with the deceased's activities.

8. The reply suggests that intruder Satish was mentally challenged and had intruded into the petitioner's house, where his wife and father were also residing. The allegations of inflicting injuries were not because of any mediation or motive but a spontaneous

reaction to an intruder in their house in the early morning hours. Needless to say, the accused had no authority or right to cause relentless beatings, but the petitioner has been in custody for more than 6 months, and the possibility of their being unaware of the physical strength and health condition of the intruder not being assessed, cannot be ruled out.

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. Given the discussion mentioned above, coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability of 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. 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. This order is subject to the petitioner's complying with the following terms.

14. 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.

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

(ANOOP CHITKARA)
JUDGE

20.11.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.