

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M- No.50517 of 2024
Reserved on: 08.11.2024
Pronounced on: 25.11.2024

Sukhdev Singh @ Sukh Shah ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rishu Mahajan, Advocate
for the petitioner(s).

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
87	18.05.2024	Ajnala, Amritsar Rural	307, 324, 323, 148, 149, 120-B IPC (Section 326 IPC added later on) and 25, 27, 54, 59 of Arms Act.

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 13.A 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:

“2. That the brief and relevant facts of the case are that aforesaid FIR No. 87 dated 18.05.2024 was registered on the basis of the statement of Lovely Kumar son of Harjinder Kumar, who had alleged therein that on 18.05.2024, he was drinking sugarcane juice on the roadside at Bhakha Hari Singh and about 02:15 PM, one Audi Car No. CH01- 4781 came from Ajnala side and Amandeep Singh was driving the aforesaid car and Sartaj Singh was sitting on the next seat and the co- accused Sukhdev Singh, Varinder Singh and Bunty were sitting on the back seat, who on seeing him stopped and alighted from the car and the co-accused Sukhdev Singh raised a lalkara to catch hold of him and Varinder Singh caused injury on his right wrist with a blow of a kirpan. He further alleged that thereafter Sartaj Singh pulled out his pistol but the pistol misfired and the co-

accused Amandeep Singh fired upon him with his pistol and one bullet hit him on the fingers of his left hand and one bullet hit on the ground near his feet and thereafter Sartaj Singh again fired upon him with an intention to kill him but he escaped himself by fleeing away from the spot and all the aforesaid accused fled away from the spot with their respective weapons. The detailed facts mentioned by Lovely Kumar in his aforesaid statement has been reproduced in the true translation of the aforesaid FIR No. 87 dated 18.05.2024 attached with the petition as Annexure P-1, which may kindly be read as a part of present paragraph as same are not repeated here for the sake of brevity.”

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 petitioner

8. That the petitioner was arrested on 09.08.2024 during the course of the investigation. As per the prosecution version, the petitioner has actively conspired with the co-accused Varinderjit Singh and Amandeep Singh against the complainant Lovely Kumar to make a cross case by inflicting the injury on the left leg of Varinder Singh and getting him admitted at Guru Nanak Hospital, Amritsar.

Evidence against the petitioner

9. That the evidence against the petitioner is in the form of disclosure statement of the co-accused Varinder Singh which is corroborated with injury of Varinderjit Singh in his Medico-Legal Report.”

7. There might be 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. Given the nature of the evidence against the petitioner 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, subject to the compliance of terms and conditions mentioned in this order.

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 Ilqa 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. 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 (Crl.) 458); and Aparna Bhatt v. The State of Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.
16. Given the background of allegations against the petitioner, it becomes paramount 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.

17. 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."

18. 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.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

25.11.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.