

CRM-M-50239-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-50239-2024  
Reserved on: 11.11.2024  
Pronounced on: 28.11.2024

Vishal alias Vishu alias Kalu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Upender Prashar, Advocate  
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                                            | Sections                                                 |
|---------|------------|-----------------------------------------------------------|----------------------------------------------------------|
| 26      | 21.02.2024 | Islamabad, District<br>Police Commissionerate<br>Amritsar | 379-B, 148, 149 IPC<br>and 411/201 IPC added<br>later on |

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. As per custody certificate dated 08.11.2024, the accused has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

*“That it is submitted that as per the report furnished by the Station House Officer, Police Station Islamabad, Amritsar, on 21.02.2024, the Complainant Rajesh Singh S/o Vikram Singh approached ASI Lakhwinder Singh, P.S. Islamabad, Amritsar, who recorded statement of the complainant, wherein it was alleged that the complainant serves in Kumar Hotel and at about 12:15 AM (night) the complainant by riding on his Activa Scooter bearing No. PB02-DT-0331 was going towards his house from Kumar Hotel and when he reached opposite Khalsa College near KBC IELTS center then five boys came on two motorcycles from opposite side. Three boys were with muffled faces and two were having naked faces. They slapped the complainant and snatched his Activa scooter, his phone Samsung having SIM No. 88726-93739 and his purse having Rs. 3000/- and fled away. He searched them at his own level and he can identify them if they come before him. Therefore, the aforesaid case FIR*

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*No. 26 dated 21.02.2024, under Section 379-B, 148,149 IPC, Police Station Islamabad, Amritsar was registered by ASI Lakhwinder Singh.*

*5. That it is submitted that after registration of the present case FIR No.26 dated 21.02.2024 (supra), the investigation was conducted by the Investigating Officer ASI Lakhwinder Singh, PS Islamabad, Amritsar, who inspected the scene of crime and prepared a rough site plan. During investigation, on 26.02.2024, it came to the notice of the Investigating Officer that one transaction from the snatched mobile phone of the complainant had been made on 21.2.2024 through 'googlepay' application. Hence, the statement of bank account No. 02881000060044 of the complainant was obtained from Punjab and Sind Bank, branch Guru Nanak Dev University, Amritsar. It was revealed that the accused persons had got filled fuel of Rs 100/- in their motorcycle from the petrol pump near New Amritsar as at the time of committing the crime, the accused persons had asked password of mobile phone and googlepay application from the complainant."*

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:

*"7. That it is submitted that during the course of investigation of the present case FIR No. 26 dated 21.02.2024 (supra), the identification of the present petitioner Vishal @Vishu @ Kalu and co-accused Rahul Kumar @ Kalu was made by the complainant Rajesh Singh vide memo dated 29.02.2024 as those two accused persons who had not covered their faces among the total five accused persons who had snatched Aactiva scooter, mobile phone and cash amount from him."*

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. Per paragraph 12 of the bail petition, the petitioner has been in custody since 28.02.2024. Per the custody certificate dated 08.11.2024, the petitioner's total custody in this FIR is 08 months & 03 days. 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.

8. 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.

9. 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

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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.

10. 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)                                                                                                             |  |

11. 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.

12. 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.

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

14. 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.

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

(ANOOP CHITKARA)  
JUDGE

28.11.2024  
anju rani

Whether speaking/reasoned: Yes  
Whether reportable: No.