

CRM-M-50759-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50759-2024
Reserved on: 13.11.2024
Pronounced on: 28.11.2024

Tarsem Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Anupam Bhanot, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
175	13.07.2023	Kotwali, District Kapurthala, Punjab	160, 302, 303, 323, 324, 325, 326, 332, 186, 353, 148, 149, 120B IPC and 42 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 07.11.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	35	22.03.2023	387, 506, 120-B, 386 IPC	City Nakodar
2	181	20.07.2023	52A of Prisons Act	Kotwali, Kapurthala

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

“3. That it is respectfully submitted that the present case bearing FIR No. 175 dated 13.07.2023 under Section 160, 302, 303, 323, 324, 325, 326, 332, 186, 353, 148, 149, 120-B IPC and Section 42 Prison Act, was registered at Police Station Kotwali, District Kapurthala on the complaint of Hemant Sharma, Additional Superintendent, Central Jail, Kapurthala initially against 22 prisoners including the present petitioner Le.. reflecting at Sr. No. 16) Prisoner Tarsem Singh @Sethi son of Karnail

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Singh PID 724773 resident of Ward N. 5 near Baba Kali Mandir, Patti Mikhawal, Police Station Bagowal, District Kapurthala who is confined in jail regarding FIR No. 35 dated 2.03 2023 under section 387,506, 120-B, 386 of IPC at Police Station City Nakodar (Room NO.07 of Barrack NO.06).

That the contents of the above FIR No. 175 dated 13.07.2023 are not being reproduced herein for the sake of brevity as the same have been annexed with the petition as Annexure P-1.

4. That after the registration of the above said FIR, thorough investigation was conducted and from the footage of the CCTV cameras at the spot, it has conspired that on 13.07.2023 at about 7.30 AM, about 30-35 inmates in collusion with each other gather at Phase-2 gate from their barracks, at Central Jail Kapurthala, out of which 31 prisoners have already been identified, out of whom, some of the inmates had weapons and some were empty handed. 21 inmates crossed the gate of Phase-II and proceeded towards security ward-E. On the way, on being stopped by the police and security forces, they scuffle with them as well. These prisoners entered the Chakki No. 17 of the Security Ward - E and gravely beaten Simranjit Singh @ Simar son of Resham Singh and his 3 companions Surinder Singh @ Jimmy son of Mann Singh, Amanpreet Singh @ Sonu son of Sarabjit Singh and VarinderPal Singh @ Raja were also beaten. And simranjit singh @ Simar was Seriously Injured. The remaining 11 inmates along with about 7-8 unknown inmates stopped the police personnels from closing the gate of Phase-II, So that there is no disturbance to their fellow inmates while returning from security Ward-E after the incident.

During the investigation it was also found that the present petitioner was involved in the conspiracy and he along with the other 35-36 accused prisoners conspired together to cause injures to the now deceased inmate namely Simranjit Singh Alias Simar & his three other accomplices with intention to kill in Ward No- 17 due to old rivalry. The injuries were inflicted upon the deceased and injured prisoners with blows with a sharp iron weapon. Subsequently during the treatment, the above said injured Simranjit scummed to his injuries at Guru Nanak Medical College Amritsar on 13.07.2023 after which a case was registered and an investigation was carried out. The Petitioner Tarsem Singh alias Sethi was produced before the Ld. Magistrate 02.08.2023 and his police remand was sought for custodial interrogation. The Ld. Magistrate duly granted the police remand of the petitioner for 2 days whereupon after his interrogation, a disclosure statement of the petitioner was recorded and

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thereafter he was confined to judicial custody.

The copy of Final report u/s 173 CrPC/challan which was presented before the ld. Court on 16.10.2023 is already annexed as Annexure P-3."

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 and evidence against the petitioner:

From the final investigation proceedings instituted as yet, CCTV camera footage, Office of Superintendent Central Jail Kapurthala, letter no. 2760 dated 18.07.2023 and the evidence placed on record, the accused nominated in the present case 1. Kamaljit Singh Alias Kanwar Alias Som son of Darshan Singh, resident of Village Janhvi, Police Station Bulowal, Hoshiarpur, 2.Tarsem Singh Alias Joda, son of Satnam Singh, resident of Mirjapur Police Station, Dhilwan, District, Kapurthala, 3. Annu Kumar Alias Annu alias Arun kumar Alias Annu son of Vijay Kumar, resident of Guru Angad Dev Colony Phulawal Ludhiana, 4. Tarsem Singh @Sethi Son of Karnail Singh, resident of Ward 5 near Baba Kali Mandir Patti Mandir Mikhawal Police Station, Begowal District, Jalandhar, 5.Sukhvir Singh, son of Gurnam Singh, resident of Randhawa, Barota Police Station, Bulowal, District Hoshiarpur, are not found to have gone to the place of incident, who have been found to be involved in the conspiracy of the incident.

During the investigation it was found that the present petitioner was involved in the conspiracy and he along with the other accused 30-35prisoners conspired together to cause injures to the now deceased inmate namely Simranjit Singh Alias Simar & his three other accomplices with intention to kill in Ward No- 17 due to old rivalry. The injuries were inflicted upon the deceased and injured prisoners with sharp edge Iron Weapon- Patti type on the head and other parts of Simranjit Singh. Subsequently during the treatment, the above said injured Simranjit scummed to his injuries at Guru Nanak Medical College Amritsar on 13.07.2023 after which a case was registered and an investigation was carried out. That during the investigation it was found that the petitioner himself has not gone to the place of the Incident whereas it has been found

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that he was involved in the conspiracy of the present incident while conspiring against the victims due to old rivalry.”

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. As per paragraph 5 of the bail petition, the petitioner has been in custody since the date of FIR i.e. 13.07.2023. As per the custody certificate dated 07.11.2024, the petitioner’s total custody in this FIR is 01 year, 03 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. 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.

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. 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.

13. 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.

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14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
15. 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.
16. **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.