

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52877-2024
Reserved on: 11.11.2024
Pronounced on: 26.11.2024

Sukhjinder ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Prabhjot Kaur Virk, Advocate for the petitioner.
Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
220	28.05.2024	Sadar Fatehabad, Haryana	325, 397, 323, 459, 506, 34 IPC

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 17 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That brief facts of the present case are that on 28.05.2024 at 2:35 AM information of online ruqqa was received in Police Station Sadar Fatehabad that Navneet Kumar (complainant) son of Satnam Singh son of Sanjha Ram resident of Hijra van Khurd District Fatehabad has been referred to MAMC Agroha from General Hospital Fatehabad. Upon which, ASI Ajit Singh alongwith fellow police officials reached at General Hospital Fatehabad and received MLR of injured/complainant Navneet Kumar and contacted on his mobile who told that I am coming to Police Station Sadar Fatehabad for further proceeding Upon which ASI Ajit Singh along with ESI Ghukkar No. 492/FTB reached at main gate of Police Station Sadar Fatehabad where injured/complainant Navneet Kumar met him and upon enquiry he got recorded his statement to the effect that "we are three brothers. We have a shop in the name of Navstore at bus stand Hizrawan Khurd, near Fatehabad to Haspur road and same is being run by me and my father Satnam Singh. I have residential house behind my shop, where, I stay with my family. On 27.05.2024 at approximately 10/11 o'clock, I was working in my shop. At that

time, two young boys came into the shop, their faces were covered and they were wearing pant and shirt. They entered in my shop and after entering into my shop, one boy picked up a bottle of glass which is kept in my shop and both of them asked me to take out all the money otherwise they will kill me. At that time, I came out from counter of my shop and came near them, but, I thought, they might be having some weapon. As soon as, I reached near both the boys, then, one of them tried to take out Kappa from this pant and as soon as I attempted to snatch the Kappa from hand of said boy, then, other boy hit on left side of my head with glass bottle, which he was carrying in his hand and both boys attacked me. Upon which, I made noise to save myself and I pushed out both the boys from my shop. The boy who was taking out Kappa from his pant and I had snatched the Kappa to save myself. That boy has received injuries in this chaos. Upon hearing my noise, my brother Manjeet and Aakash came at the spot. Both boys ran away from the spot. After that my friend Sunil son of Premchand resident of Hizrawan Khurd District Fatehabad took me to Government Hospital Fatehabad for treatment in his own car. He further averred that the entire footage of the complete incident is recorded in camera of my shop. These unknown persons entered into my shop, creating pressure to give money and has caused injuries. I can identify both the boys, if they come in front of me. He prayed for taking strict legal action against them". On the basis of statement of injured/complainant Navneet Kumar and MLR, present case has been registered under Sections 386, 323, 506, 452, 34 IPC at Police Station Sadar Fatehabad and investigation was carried out."

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 status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

"11. That it is worthwhile to mention here that in the CCTV footage installed at the shop of the complainant, both the accused persons can be clearly seen attacking the complainant/injured with the glass bottle and both of them have covered their faces. Screen Shots captured from the CCTV footage is annexed herewith as Annexure R-4 for the kind perusal of the Hon'ble High Court.

12. That during investigation, on perusal of the CCTV footage of the place of occurrence and on the basis of opinion of doctor, section 394 of IPC has been added in the present case.

14. That during further course of investigation, on 13.09.2024, co- accused Khushpreet Singh was arrested in accordance with law and he suffered disclosure statement regarding his involvement in the present case alongwith petitioner-accused Sukhjinder Singh and co-accused Khushpreet got recovered motorcycle bearing No. HR20J5194 marka CD Down and knife used in the crime of the present case and same were taken into police possession. On 13.09.2024, co-

accused Khushpreet Singh was identified by the complainant/injured Navneet Kumar and test identification parade was also got prepared.

18. That allegations against the present petitioner are serious in nature as petitioner-accused Sukhjinder Singh @ Chhinda alongwith co-accused Khushpreet Singh entered into the shop of complainant and for creating pressure to give money and both have caused grievous injuries to the complainant. in the CCTV footage/Screen Shots (Annexure R-4) installed at the shop of the complainant, both the accused persons can be clearly seen attacking the complainant/injured with the glass bottle and both of them have covered their faces. In such circumstances, complicity of petitioner is specifically established on record. However, injury caused to the injured/complainant is attributed to the co-accused Khushpreet, who after causing grievous injury in the head of injured/complainant, ran away from the spot on his motorcycle alongwith knife, but without the active assistance and the support of the present petitioner, it was unlikely to happen the entire occurrence.”

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.
8. Per paragraph 11 of the bail petition, the petitioner has been in custody since 28.05.2024 and his total custody in this FIR is around six months.
9. 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.
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)	
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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

26.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.