

CRM-M-52354-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52354-2024
Reserved on: 07.11.2024
Pronounced on: 14.11.2024

Lovepreet Singh alias Billa ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.S. Mehndiratta, Advocate for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Hardeep Singh Wadhwa, Advocate and
Mr. Bhuvan Bhalla, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
129	06.09.2024	Pasyana, District Patiala	109, 191, 190 BNS 2023 and 25 of Arms Act

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. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents, however as per custody certificate, petitioner has the following criminal antecedents:-

Sr. No.	FIR No.	Dated	Police Station	Sections
1	50	06.05.2020	Pasiana	302//307/326/324/341/506/323/148/149/188(B) IPC and 51/54 of Disaster Management Act 2005 and 3 of SCSTPOA Act
2	249	31.10.2021	Sadar Samana	307, 324, 323, 506, 148, 149 ICP and 25/27/54/59 of Arms Act
3	195	31.08.2021	City Samana	365, 341, 324, 323, 427, 506, 148, 149 IPC
4	136	22.07.2023	25/54/59 of Arms Act	Sadar Samana

CRM-M-52354-2024

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

“That the present case/FIR No. 129/2024 (supra) was registered pursuant to the statement of Lovepreet Singh (complainant/respondent no. 2), wherein he stated that on 26.08.2024, he alongwith his friends Chamkaur Singh and Jagjit Singh had gone to eat Burgers near Bus Stand of Village Karhali Sahib, in the meantime, Varinder Singh alias Bawa, Abhishek alias Babbu and Gurinder Singh came therein on car make Optra and started hurling abuses and threatening them that they came in their village to watch the cricket tournament and respondent no. 2 and his friends were staring at them. Apprehending a quarrel, the respondent no. 2 alongwith his friends came back to their respective houses. Thereafter, on 27.08.2024 at around 12:00 PM, Varinder Singh alias Bawa called the respondent no. 2 on his phone and asked him to come under the bypass bridge near village Khera Jatta at 3 PM to discuss the matter peacefully. Accordingly, respondent no. 2 alongwith his friends Chamkaur Singh and Jagjit Singh reached at the said spot and saw that Varinder Singh alias Bawa was armed with dagger, Abhishek alias Babbu armed with sword, Gurinder Singh armed with iron rod and Lovepreet Singh alias Billa (present petitioner) and 7/8 unknown persons were already standing therein. Upon seeing the respondent no. 2 and his friends, Varinder Singh alias Babbu raised lalkara that let us teach them a lesson for staring at them on the day of cricket tournament and in the meantime, Lovepreet Singh alias Billa (petitioner) took out a revolver from his dub and fired 4/5 shots towards them with the intention to kill. The respondent no. 2 and his friends raised hue and cries, and left the spot on their motorcycle to save their lives. Hence, upon the statement of Complainant/Respondent no. 2, the present case/FIR was registered against (1) Varinder Singh alias Bawa, (2) Abhishek alias Babbu, (3) Gurinder Singh, (4) Lovepreet Singh alias Billa (petitioner) and 7/8 unknown persons for the offences under Section 109, 191, 190 BNS and Section 25 Arms Act.”

4. The petitioner's counsel submits that due to intervention of common relatives, the matter has been settled.

5. 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.

6. The State's counsel opposes bail and refers to the reply.

7. The counsel appearing for the complainant/victim submits that they have settled

CRM-M-52354-2024

the matter and they are known to each other, and the victim shall have no objection to bail.

8. It would be appropriate to refer to the following portions of the reply, which read as follows:

“6. Role of petitioner: That on 27.08.2024, petitioner took out a revolver from his dub and fired 4/5 rounds, with the intention to kill, towards the respondent No.2 and his friends. However, the respondent No.2 and his friends saved themselves and fled away from the spot.

7. Evidence against the petitioner: That the petitioner is directly named by respondent No.2 in his statement. Moreover the weapon i.e. countrymade 315 bore used by the petitioner was also got recovered by the investigating agency on the basis of disclosure statement suffered by the petitioner.”

9. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, because of the compromise this Court does not think it appropriate to continue pre-trial incarceration. As per paragraph 3 of the bail petition, the petitioner has been in custody since 09.09.2024. As per the custody certificate dated 07.11.2024, the petitioner’s total custody in this FIR is 01 month & 26 days.

10. Given the above, absence of injury, and coupled with the primafacie 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.

11. 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.

12. 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.

13. 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)	

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

CRM-M-52354-2024

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 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.

16. 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."

17. *This bail is subject to the condition that the petitioner shall not repeat any similar offense or other crimes. If the petitioner commits any offense that attracts a sentence of more than seven years, in that case, the State shall apply for the cancelation of bail before the concerned Sessions Court, who, after considering the new crime, shall be at liberty to cancel this bail.*

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

19. 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

CRM-M-52354-2024

to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

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

(ANOOP CHITKARA)
JUDGE

14.11.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.