

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53786-2024
Reserved on: 12.11.2024
Pronounced on: 26.11.2024

Rajinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Deepak Goyal, Advocate for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
06	07.03.2024	Punjab State Crime Police Station, SAS Nagar, District SAS Nagar (Mohali)	384/34 IPC and 25(6)/25(7) of Arms Act

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail.
2. Per paragraph 10 of the bail application and paragraph 13 of the status report as well as of the Custody Certificate filed by the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1	153	06.07.2024	323/325/341/148/149 IPC	Bhawanigarh, District Sangrur
2	84	10.05.2021	304/34 IPC and 29 of NDPS Act	Bhawanigarh, District Sangrur
3	21	15.02.2024	379-B/341/323/427/506/34 IPC	Bhawanigarh, District Sangrur
4	302	2020	341/323/506/148/149/201 IPC	Bhawanigarh, District Sangrur
5	55	02.04.2023	341/323/148/149 IPC	Bhawanigarh, District Sangrur
6	11	07.03.2024	384/34 IPC and 25(6)(7)of Arms Act	State Crime Branch

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

“That brief facts of the case are that case FIR No.06 dated 07.03.2024 u/s 384/34 IPC and Section 25(6) 25(7) of Arms Act, 1959 was registered at Police Station Punjab State Crime Police Station, SAS Nagar, District SAS Nagar (Mohali) against

Lucky Patial @ Gaurav Patial son of Surinder Singh, Arashjot Singh @ Arash son of Harwinder Singh, Ranjeet Singh @ Rana Gutej Singh @ Harry son of Jaswinder Singh and two other unknown persons, on the allegations that the above said accused persons are members of Davinder Bambiha Gangster Group and they keep illegal arms and ammunitions and further supply to group members. It has been further alleged in the FIR that accused persons used to demand ransom from builders, artists and other rich persons after threatening them on the instructions of Gangster Lucky Patial @ Gaurav Patial son of Surinder Singh, who is residing in abroad i.e. Armenia."

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:

"14. Role of the Accused/Petitioner

That the accused petitioner is an active member of Organised Gangsters Group being run headed by Davinder Bambiha as well as of Lucky Patial @ Gaurav Patial now resident of Armenia, and on their directions, he used to obtain and supply arms and ammunition to other gangsters. So, if he is released, he may involve to rise of illegal activity to supply of arms and ammunitions in Punjab and there is need of the hour to beacon said gangs operating in Punjab.

Evidence against the Accused/Petitioner

15. That since the accused/petitioner is involved in a number of other cases registered against him and he met with co-accused Arshjot Singh @ Arsh and Ranjeet Singh Rana in Nabha Jail during his custody and on the directions of Lucky Patial @Gaurav Patial, he obtained two pistols from Arshjot Singh @ Arsh, Ranjeet Singh @ Rana and Gurtej Singh @ Harry. He further supplied the pistol to Jasbir Singh @ Jassa, who committed a crime in the area of Police Station Sultanpur Lodhi District Kapurthala, where that pistol was recovered by the police of Police Station Sultanpur Lodhi from Jasbir Singh @ Jassa in case/FIR No. 47 dated 13.03.2024 u/s 386/506 IPC and Sec. 25/54/59 of Arms Act Police Station Sultanpur Lodhi, in which later on section 307 of IPC was enhanced."

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. This Court is not analyzing the evidence for the purpose of charges, for which the evidence collected so far might be sufficient, but for the purpose of bail, based on this kind of evidence, the petitioner's further pre-trial custody. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

8. Per paragraph 4 of the bail petition, the petitioner has been in custody since 13.07.2024. Per the custody certificate dated 11.11.2024, the petitioner's total custody in this FIR is 03 months and 25 days.

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)	

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 background of allegations against the petitioner, it becomes paramount to protect the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report, 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 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.

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 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

26.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.