

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55308-2024
Reserved on: 02.12.2024
Pronounced on: 19.12.2024

Rachpal Singh @ Sonu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
52	01.06.2024	Badhni Kalan, District Moga	436, 435 and 427 IPC

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 Cr.P.C., seeking regular bail.
2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That brief facts of the case are that complainant got recorded her statement with the police that she is running her boutique in rental shops at Badhni Kalan, under the name and style of Kiran Boutique. On 31.05.2024 in evening time after locking her shop she returned to her house at Moga and on 01.06.2024 at about 4 AM she received a telephonic call from Ramandeep son of Satpal resident of Badhni Kalan that smoke is coming out of her shop and may be there is fire inside the shop. Then complainant alongwith Ranjit Singh son of Mukhtiar Singh resident of Bhagike, now residing at Damnan Singh Road, Moga reached at her shops and found there was fire in their shops. With the help of people gathered there she succeeded to control the situation. When she checked and found that DVR, Generator, LCD, about 100 ladies suits, inverter alongwith battery, machine, bed cum sofa, furniture and other articles of the boutique amounting to Rs.8 lakhs were burnt with fire. She tried her level best to trace out the accused and on checking of CCTV footage she came to know that Rashpal Singh had set fire in the boutique by pouring some liquid lookalike petrol.”

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. 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.
7. Per paragraph 7 of the bail petition, the petitioner has been in custody since 05.06.2024. Per the custody certificate dated 01.12.2024, the petitioner’s total custody in this FIR is 05 months and 25 days.
8. 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, subject to the compliance of terms and conditions mentioned in this order.
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. This order shall come into force from the time it is uploaded on this Court's official webpage.
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. This order is subject to the petitioner’s complying with the following terms.
13. 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.

14. 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.

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 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

19.12, 2024
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Whether speaking/reasoned: Yes
Whether reportable: No.