

CRM-M-57286-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57286-2024
Reserved on: 04.12.2024
Pronounced on: 17.12.2024

Mohit Verma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gitesh Sharma, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
59	28.03.2024	Sadar Ludhiana (Punjab)	399, 402, 379-B(2) & 411 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. As per custody certificate dated 03.12.2024, accused has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the brief facts pertaining to the present case are that on dated 27.03.2024 at around 10:00 PM S.I. Prit Pal Singh along with other police party was present near Bedi Farm House Chowk Basant Avenue, Ludhiana in connection with checking of vehicles and suspicious persons. He received secret information that Ashwani, Mohit, Amandeep Kumar alias Aman, Rahul alias Bhuchi Amandeep Singh son of Jaswinder Singh and Paramjeet Singh alias Pamma habitual in snatching and dacoity are present in a vacant plot at Basant Avenue Colony and planning to commit dacoity in the area. In case raid is conducted they could be apprehended with deadly weapons. Information was reliable Ruga was sent to the police station. On the basis of which FIR under Section 399 and 411 of IPC was registered. Raid was conducted at the spot. The petitioner, co-accuseds Ashwani Kumar, Amandeep Kumar, Amandeep Singh and Harwinder Kaur were arrested at the spot. Co-accused Paramjeet singh and Rahul fled away from the spot due to darkness. From the possession of the co-accused Harwinder kaur, seven mobile phones and one knife was recovered. From the possession of the co-accused Amandeep Kumar alias

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Aman one Iron Datter and three mobile phones were recovered. From the petitioner-accused Mohit one Iron Datter, four mobile phones and active Scooty bearing number PB-10 HB-9398 was recovered. From co accused Ashwani one Iron Datter, four mobile phones and motor cycle without number plates was recovered. From co-accused Amandeep singh one iron datter three mobile phones were recovered. Offence under section 379-B(2) and 411 IPC were added in the present case and the same was recorded in the Zimni No. 3 dated 29.03.2024. During the investigation one Surinder had identified his mobile phone oppo, snatched from him on 15.03.2024 and one Jyoti Sharma had also identified her mobile phone Redmi snatched from her on 20.03.2024.”

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:

“5. ROLE OF THE PRESENT PETITIONER

That the petitioner, along with the other co-accused on dated 27.03. 2024 were wielding deadly weapons and were preparing to carry out a dacoity in the residences around the Basant Avenue area of Ludhiana. Upon conducting raid, one Iron Datter, four mobile phones and active Scooty bearing number PB-10 HB-9398 was recovered from the petitioner.

6. EVIDENCE AGAINST THE PETITIONER

That upon the arrest of the petitioner one iron dattar and four mobile phones were recovered. Furthermore, the petitioner is his disclosure statement, under Section 27 of The Indian Evidence Act had admitted in participating in the crime along with Aaman and Ashwani, had snatched Rupees 4000/- from an individual in Mohalla Satjot Nagar, and another incident where the petitioner and co-accused Aman and Ashwani assaulted a migrant labourer and took his Samsung Mobile phone and Rupees 10,000/- in Mohalla Shaheed Bhagat Singh Nagar. The petitioner's confession also led to the recovery of an Iron Dattar that had been used by him in these offences.”

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. As per paragraph 3 of the bail petition, the petitioner has been in custody since 28.03.2024. As per the custody certificate dated 03.12.2024, the petitioner's total custody in this FIR is 08 months & 02 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.

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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.

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. 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 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.

15. 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,

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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."

16. 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.

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

17.12.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.