

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38085-2024
Reserved on: 03.02.2025
Pronounced on: 19.02.2025

Suman Bala @ Suman ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Tarun Vir Singh Lehal, Advocate
for the petitioner.

Mr. Jasjit Singh, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
185	03.07.2024	Civil Lines, Batala	105 of BNS and 21, 29 of NDPS Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. Vide order dated 06.08.2024, the petitioner was granted interim protection, which is continuing till date.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“4. That, it is humbly, submitted that the brief facts of the case are that the present case was got registered by the complainant Jaspinder Kaur to the effect that on 02.07.2024 at about 09:00 PM accused Jaspinder Singh visited her house and took her son Sehajpreet Singh to Golden Temple at Amritsar alongwith him. It was further stated by the complainant that on 03.07.2024 at about 07:30 PM, Jaspinder Singh called on her mobile phone from her son's mobile phone and stated that Sehajpreet Singh is in their house in an unconscious condition. The complainant alongwith her family visited the house of Jaspinder Singh, where they saw her son in an unconscious condition and froth was coming from his mouth and her son was already died. The complainant further stated that her son had died due to consumption of poisonous substance given to him forcefully by Jaspinder Singh.

5. That it is humbly submitted that during the course of investigation the spot of occurrence was inspected and site plan was prepared, the statement of witnesses under Section 161 Cr.P.C. were recorded, compliance of form 25-35 was made, the postmortem of deceased Sahilpreet Singh was got conducted from Civil Hospital Batala.

6. That, it is humbly submitted that further during investigation of the case on 03.07.2024 the accused Jaspinder Singh S/o Balwinder Singh was arrested. During interrogation he disclosed that on 03.07.2024 he had obtained the intoxicant material from Baldeep Kumar Gacha S/o Jagdish Raj R/o Gandhi Camp Batala and his wife Suman W/o Baldeep Kumar Gacha resident of Gandhi Camp Batala and which further consumed by his friend Sahilpreet Singh S/o Surinder Singh resident of Amritsar Road Bye Pass Batala due to which he died. On the basis of his disclosure statement, Baldeep Kumar Gacha S/o Jagdish Raj R/o Gandhi Camp Batala and his wife Suman W/o Baldeep Kumar Gacha, residents of Gandhi Camp Batala, District Gurdaspur were nominated as accused vide DDR No.67 dated 03.07.2024.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and 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:

“10. That, it is humbly submitted that the allegations against the present petitioner/accused are that she supplied the alleged intoxicant substance to the son of the complainant Sehajpreet Singh as well as main accused and by consuming the said intoxicant substance, the son of the complainant had died. These allegations are very serious and grave in nature. The name of the petitioner/accused erupted for the first time during the disclosure statement suffered by main accused, that she had supplied the intoxicant substance.”

7. An analysis of the above pleadings would lead to the outcome that the petitioner is not the main accused and she has been named in disclosure statement.

REASONING:

8. It is prima facie established that the complainant's child had expired due to over dosage of drug that was supplied by Jaspinder Singh. On interrogation of Jaspinder Singh, he disclosed involvement of Baldeep Kumar and his wife i.e. the petitioner as suppliers of the intoxicant. It is also prima facie established that the petitioner has history of dealing in drugs but be that as it may, the evidence collected against the petitioner is

prima facie in the shape of disclosure statement of Jaspinder Singh.

9. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

10. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

11. The petitioner was granted interim protection, and during the interregnum, there is no allegation that she had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

CONDITIONS:

12. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. Given the background of allegations against the petitioner, it becomes paramount to protect the complainant, witnesses, and 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, 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.

14. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the victim's property, workplace, and residence 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 Bhat v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

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, 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. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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. **Petition allowed** in terms mentioned above. Interim order dated 06.08.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.