

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-52358-2024 (O&M)

Date of Decision: 08.01.2025

Firoz Alam

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Hitesh Kumar Sammi, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

Ms. Malkiat Kaur, Advocate for the complainant

Sandeep Moudgil, J.

Relief claimed

(1). This petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for grant of regular bail to the petitioner in case FIR No.0330 dated 28.07.2024 under Sections 309(4), 310(2), 308(2), 331(6), 111, 61(2) of Bharatiya Nyaya Sanhita, 2023 (BNS) registered at Police Station Zirakpur, District SAS Nagar Mohali.

Facts

(2). Facts as emerging in the FIR is reproduced as under:-

“Copy of statement, statement of Parveen Kumar @ Hunny s/o Kuldeep Singh resident of Village Datoul, Police Station: Bangana, Distt. Una, Himachal Pradesh now resident of Hotel Jee Plaza near Patiala Chownk, Zirakpur, Police Station: Zirakpur, Distt. SAS Nagar, aged about 34 years, mobile no. 7696293510. It is stated that I am resident of above noted address and I am doing the work of hotel line at Zirakpur, since about 04/05 years and I have, my one hotel and in Zirakpur, there is my one hotel Jee plaza, near Patiala Chownk and second hotel New Style and third hotel on its backside Anmol, running on rent. The time about 10-15 days earlier Sahil Thakur resident of village Chatt, usually meet me in the bazaar and asked

that what is your dispute going on with Feroz Khan, who said that you keep aside otherwise I will see you by my own way. I have my own group in Zirakpur. There are 40/50 boys in my group. I have link up to high level. You have to pay 50,000/- per week to me. If you will not pay this amount then I will get your hotel close. On dated 24.07.2024, I was present at my New Style Hotel then the time was about 10:45 PM, Sahil Thakur, Nikhil resident of Banur and Samma went to my second hotel Jee Plaza. They have asked about me that where I am then after asking, they went to my second hotel New Style then from there, I came out from there in connection with my work then they entered inside to my New Style Hotel and started threatening to my staff and they have told that you asked to your owner that he close his hotel otherwise his condition will be harmed. My staff has told me all this talk to me on phone. Again, on dated 25.07.2024, the time about 4/5 o'clock in the evening, Sahil Thakur alongwith about 19/20 young persons, by riding on motorcycles, came to my hotel. Who had asked about me, on that time, all were having Kirpan and dandas stick with them and have forcibly got closed my three hotels and said that we have no fear of the police. I got panic and out of fear, I have not told this thing to anyone. They said that we have approached up to high level. Yesterday night on dated 27.07.2024, the time about 10 o'clock in the night, I have got received phone call from hotel Style that Sahil Thakur alongwith about 25/30 young persons, riding on the motorcycles came there, all of them was having kirpans and dandas sticks and baseballs with them. Then, they have broken the glasses and LEDs installed inside, AC and other articles lying in my three hotels and they have snatched Rs. 20,000/- from my employee Ravinder who was standing at the counter of Hotel New Style. And have taken away the DVR installed in the Hotels. In this connection, by now, I was inquiring about them. I came to know that Sahil Thakur alongwith Nikhil Chaudhary resident of Banur, Cheten resident of Dhakoli, Samma resident of Badal Colony, Zirakpur, Bazz resident of Banur, Rana resident of banur, Vishal resident of Dhakoli, Jassi resident of Dhakoli, Baman resident of Banur, Kapil s/o Rakam Singh resident of Sukhna Colony, Zirakpur, Kuldeep resident of Preet Colony Zirakpur, Rakesh resident of Sukhna Colony, Zirakpur, Deepak resident of Sukhna Colony, Zirakpur, Honey resident of Sukhna Colony, Zirakpur, Harpreet Singh @ Happy s/o Karnail Singh resident of Preet Colony, Zirakpur, Prince s/o Som Nath resident of Sukhna Colony, Zirakpur, Lokesh s/o Ramesh resident of Sukhna Colony, Zirakpur, Deepak s/o Baldev Singh resident of Preet Colony, Zirakpur and alongwith other 10/15 unknown young person were there, to whom, I can identify them

if appear before me. Now, I was coming to give information in this connection to the police station, you have met me near Kohinoor Dhaba, Ambala Road, Zirakpur. I have got recorded my statement, which is heard and correct. Statement given Sd/- Parveen Kumar..”

Submissions of the petitioner

(3). Learned counsel for the petitioner submits that initially the FIR was registered against unknown 19 persons and even he is not named therein, however, the complainant, who is contemporarily running hotel business with the petitioner, has connived with the police and got him implicated in the present case to settle his personal score out of animosity against the petitioner. To substantiate his version, the petitioner has placed on record tripartite partnership deed dated 04.03.2023 (Annexure P2) with the complainant and one Rafeeq Raja to carry on business of hotel under the name and style of “Hotel Deep” at Zirakpur-Chandigarh Highway Road, District SAS Nagar, Punjab.

(4). He argued that since the complainant cheated him and grabbed funds of the petitioner’s share, the said partnership deed was dissolved and he started the business with new hotel “Chandigarh Highway Inn” which is giving tough competition to the complainant’s hotel and it is because of this business rivalry the complainant has purposely implicated the petitioner to harm him and his reputation in the market.

Stand of the State

(5). Learned State counsel has filed the custody certificate dated 07.01.2025 which is taken on record, according to which, the petitioner has undergone 4 months and 20 days of custody. He submits that pursuant to submission of challan on 21.02.2024, charges have been framed on 16.08.2024

and out of total 16 PWs, only 4 PWs have been examined till date. He submits that the petitioner has been involved in serious offence and there is apprehension that he may abscond or influence the witnesses since trial proceedings are going on.

(6). Ms. Malkit Kaur, Advocate for the complainant narrated the whole incident and facts that hinges on the active involvement of the petitioner and other co-accused in the present case. She submits that he along with 19 unknown persons came and attacked the employee of the complainant, namely, Dharmendra and tried to kidnap him, besides they snatched Rs.53000/- along with mobile and gave merciless beatings to him and this whole incident has been recorded in the CCTV camera. She further averred that the complainant even filed CRWP-6243-2024 seeking protection of his life at the hands of the petitioner which was allowed and a direction to this effect was issued by this Court on 03.07.2024 (Annexure A1), however, despite that the police did not provide any protection and infuriated with this, the petitioner and other co-accused again attacked the hotel premises of the complainant and injured some other employees.

(7). She then argued that rather the police persons are helping the petitioner and other gangsters who are demanding huge amount as phiroti, and despite after passing of four months, the police have not nominated and arrested the accused in FIR No.330 dated 28.07.2024 and as a result of their inaction, the complainant faced a loss of Rs.80 lakhs on account of damage to the property at the hands of the petitioner.

Analysis

(8). Heard learned counsel for the parties.

(9). A reading of the FIR coupled with the attributions made by the complainant against the petitioner and other co-accused as also the manner in which police has conducted themselves serious and grave allegations have been made out against the petitioner. The complainant has appended photographs (Annexure A2) showing the damage caused to his property and also to demonstrate the act of criminal trespass, allegedly at the hands or behest of the petitioner in an organized manner. Besides there are apparently grave allegations of dacoity, robbery and extortion of money from the complainant.

(10). In a petition filed by the complainant i.e. CRWP-7304-2024 seeking protection, while taking into consideration the allegations against the petitioner who was trying to extort money by threatening people, notably businessmen including the complainant, who is running four hotels supported by the screenshots and photographs depicting the damage caused to the property, this Court vide order dated 08.08.2024 directed the police to grant protection to the complainant and to file status report. Thereafter, on the basis of the status report filed by Nilambari Vijay Jagdale, IPS, Deputy Inspector General of Police, Rupnagar Range, it came to light that the petitioner, who is the main accused has not been named in the FIR till date and only after passing of the order dated 08.08.2024 by this Court, DDR No.63 dated 12.08.2024 has been registered naming the petitioner-Feroz Khan as an accused. Since this fact raised doubts in the mind of the Court for the manner in which the investigation was being conducted, it passed the following order on 13.08.2024:-

“This Court though has no business to direct the investigating agency the manner in which the investigation is to be conducted but prima facie can make out on perusal of the present petition and the representation made to the police agency ie Annexure P-10 by the

petitioner, that as to why respondent No.6 was not initially nominated as an accused in the FIR itself and subsequently as a skin saving device a DDR has been registered on 12.08.2024. Such attitude and manner of investigation cannot be accepted by this Court and facing the annoyance, Mr. Chopra on instructions from Jaskamal Singh Sekhon, Station House Officer, Zirakpur assures the Court that all necessary steps will be taken to nab respondent No.6 against whom the petitioner has categorically alleged the acts of omission and commission constituting a cognizable offence as has been narrated in the FIR.”

(11). A conspectus of the above factual aspects would only show that there are specific and serious allegations against the petitioner with regard to threatening and extortion besides criminal trespass and crime leading to property damage and beatings given by or at the hands of the petitioner. It also shows that the petitioner is operating as an organized gang found involved in realization of illegal protection money/extortion from the hoteliers like petitioner and their influence is to such an extent that even the police have proved themselves to be lame in not extending protection to the complainant, for, the complainant had to approach this Court. That apart, the issues and allegations though serious and grave in nature, are based on facts which can only be ascertained in the trial court in a fair and transparent manner as is the mandate of Article 21 of our Constitution.

(12). There is serious apprehension that if the petitioner is enlarged on regular bail he may indulge in influencing and winning over of evidence added with the fact that his past conduct has also been a savage wherein the complainant had to run to this court to seek protection in CRWP-7304-2024.

(13). In **State of Karnataka v. Puttaraja (2004 (1) SCC 475)**, it was inter-alia observed as follows:-

"Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime e.g. where it relates to offences against women like the case at hand, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact and serious repercussions on social order and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meager sentences or taking too sympathetic a view merely on account of lapse of time or considerations personal to the accused only in respect of such offences will be resultwise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by the required string of deterrence inbuilt in the sentencing system."

(14). In the light of the above stated dicta coupled with the facts of the instant case, the gravity of offence is such that the complainant may develop fear psychosis and continue to live his life under the perception of threat. Therefore, this Court finds no reason to grant the concession of regular bail to the petitioner.

(15). Accordingly, this petition is dismissed.

08.01.2025
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No