

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55400-2024
Reserved on: 09.01.2025
Pronounced on: 21.01.2025

Sant Kumar @ Mohit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Bishnoi, Advocate
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
277	17.06.2024	City Fatehabad, District Fatehabad	147, 148, 323, 395, 427, 452, 506 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. In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:-

“3. That briefly stated facts of the case are that the FIR in the present case was registered on the basis of written complaint filed by the complainant, the contents of which are as follows:

*"To, The Station House Officer, Police Station City Fatehabad.
Subject: for forcefully entering into the house and causing damage and threaten to kill by Mohit son of Subhash resident of near Shri Lakshmi Narayan Mandir, Mahiha colony, Fatehabad and his companion Manjeet, son of not known resident of Shiv Mandir, Tehsil and District Fatehabad and 30-40 unknown persons whose whereabouts are not known and were accompanying them. Respected sir, it is requested that applicants Subhash Chander Son of Shri Kirodi Mal, Satish Kumar, son of Shri Lakshmi Chand, resident of Street no.1, Maatu Ram Colony*

submit as under: 1. That we applicants are residing in Street no.3 of Maatu Ram Colony, Fatehabad and on dated 16-06- 2024. We applicants have gone on work and our small children, my wife and my daughter-in-law were present in the home. In my absence at about 06:00 in the evening, the above said Mohit and his companion Manjeet, along with 35-40, other persons who were having sticks, swords, Gandasa's etc. with them have forcibly entered into my house and pelted bricks on the gate of the house and caused damage to the household articles with sticks and also picked up the kids and threw them here and there without any mercy and gave beatings and also threatened to kill, and the above said accused persons have also taken away Rs.10,500/- that were kept in the Almirah. They have also caused damage to the bike of my brother Ramesh Kumar with sticks which was standing outside the street of make CD deluxe bearing registration number HR 205-9636. They also entered in the house of my neighbour, Satish Kumar, son of Sri Lakshmi Chand and also scattered their household articles and have done damage and after that they have completely destroyed two another motorcycles which were standing outside the house in the street and have pelted stones and ran away. The accused persons have caused damage to our household articles without any reason. Now we are apprehending threat to our life and liberty from the above said persons at all times. If anything or any loss happens to us, then the above said accused persons will be responsible for the same. Therefore, it is requested to your good self that strict legal action be taken against above, said all persons and life and liberty of me and my family be protected and the damage caused to our household articles be recovered and Justice be given to us. We shall be highly thankful to you. Dated 17.06.2024. SD/- Subhash Chandra, Satish. Applicants Subhash Chandra son of Shri Kirodi Mall. Mobile number 9812983550. Satish Kumar, son of Sri Lakhmi Chand.”

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:-

“13. That the specific role attributed to the petitioner/accused is that he along with other co-accused persons of the unlawful assembly (approximately 35-40 in number) forcibly entered into the house of complainant and other persons and pelted bricks on the gate of the house and caused damage to the household articles with sticks and also picked up the kids and threw them here and there without any mercy and gave beatings and also threatened to kill. During investigation of the case it was revealed that the

petitioner/accused and the other co- accused persons have committed the vandalization and destruction with the motive of taking revenge from the people of other community because some people of the other community killed one Balraj @ Goli who belonged to the community to which the petitioner/accused and some other co-accused persons belong.”

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. Per paragraph 8 of the bail petition, the petitioner has been in custody since 18.07.2024. Per the custody certificate dated 07.12.2024, the petitioner's total custody in this FIR is 04 months and 19 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 for 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 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.

16. 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.

17. 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."

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

CRM-M-55400-2024

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

21.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.