

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55866-2024
Reserved on: 09.01.2025
Pronounced on: 24.01.2025

Parveen @ Romton ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Randeep S. Dhull, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
80	06.03.2024	Rajender Park, Gurugram	394, 397, 325, 506/34 IPC

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 CrPC/ Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents, however, as per paragraph 11 of the status report, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	203	24.07.2023	61(1) (a) of Excise Act	Rajindra Park

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:-

“3. That the brief facts leading to registration of the FIR aforementioned are that an information was received that one Tapeswar had been shot at and after reaching the place of occurrence, it was informed that the injured Tapeswar had been taken to the Medanta Hospital, Gurugram. Upon this information, the police party had reached the Medanta Hospital and had obtained the Ruqqa and MLC of the injured. Doctor's opinion was sought regarding the fitness of the injured to take a statement, on which it was opined that the injured was unfit to make a statement.

Thereafter, an application was moved to the medical officer seeking the opinion regarding the nature of injuries present on the person of the victim, on which it was opined that the patient had given the history of being Hit by wooden Log/Baton. Thereafter on 05.03.2024, the injured victim was opined fit to make a statement and accordingly his statement was recorded, in which he contended that on 05.03.2024 at about 10/10.30 p.m., when he was returning home and had reached near his vehicle bearing registration No. HR26-ET-7993, Sahib and Romton residents of Surat Nagar and their two friends, suddenly came there and one of them started giving beatings with a danda and also gave a blow on his head and snatched his gold chain and bag which contained two phones, Rs. 3,50,000/ cash and fled away from the spot after looting his car also. He however took the help of wife of his landlord and she admitted him in the hospital. Legal action was sought. On the basis of these allegations, the FIR aforementioned was registered and investigation was taken up in the matter.”

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:

“7. That on 15.04.2024, accused Avneet alias Sahib and the petitioner were joined in the investigation of the case and they were arrested upon receipt of appropriate incriminating evidence against them. They were interrogated while being in custody and upon interrogation, they suffered their respective disclosure statements admitting their involvement in the commission of the present crime. In pursuance of their respective disclosure statements, the co-accused Avneet alias Sahib got recovered 4 mobile phones and Rs.35,400/- and the petitioner got recovered 3 mobile phones and Rs.50,000/- which were taken into police possession.

12. That the petitioner had committed offence of snatching along with his co-accused and these cases are on rise these days. Three of the looted mobiles and Rs.50,000/- cash have been recovered in pursuance of his disclosure statement, which duly establishes his complicity in the present crime. It is submitted that he does not deserve the relief of regular bail as, if he released on bail, he may commit similar kind of offences again and may further pressurize and dissuade the witnesses from disclosing the truth. He may flee from justice as well. Further it is submitted that the petitioner along with his accomplices had attacked the complainant and had caused injuries on his head which has been opined by the medical officer as grievous in nature.”

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 for 07 months. Per the custody certificate dated 07.01.2025, the petitioner's total custody in this FIR is 08 months and 20 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. *This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.*

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

24.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.