

CRM-M-55850-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55850-2024
Reserved on: 07.01.2025
Pronounced on: 29.01.2025

Deepak alias Bhoria ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Kumar Dahiya, Advocate and
Mr. Rajan Singh, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
508	01.07.2023	Kundli, District Sonipat (Haryana)	379-B, 34 (Sections 120-B, 201, 411 added later on) of 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 paragraph 18 of the bail petition as well as custody certificate dated 05.01.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	34	22.01.2014	394, 395 IPC	Kharkhoda, Sonipat
2	493	2011	379 IPC	Civil Lines Rohtak, Rohtak
3	71	2019	397, 411, 34 IPC	Cannaught Place, New Delhi
4	379	18.07.2023	395, 397, 412, 120-B IPC and 25/54/59 of Arms Act	Kharkhoda, Sonipat
5	42	12.02.2016	25/54/59 of Arms Act	Murthal, Sonipat
6	310	16.07.2015	379 IPC	Kharkhoda, Sonipat
7	15	13.01.2014	379 IPC	Civil Lines Sonipat, Sonipat
8	33	2014	379 IPC	City Sonipat, Sonipat
9	405	2013	379 IPC	City Sonipat, Sonipat
10	329	14.10.2013	379, 411 IPC	Kharkhoda, Sonipat
11	438	07.10.2013	379 IPC	Civil Lines Sonipat,

				Sonipat
12	398	01.10.2013	379/411 IPC	City Sonipat, Sonipat
13	227	27.06.2012	379/411 IPC	Sadar Sonipat, Sonipat
14	273	29.07.2012	379 IPC	Kharkhoda, Sonipat
15	255	16.07.2012	379, 420, 467, 468, 471 IPC	Kharkhoda, Sonipat
16	272	02.08.2012	379/411 IPC	Kharkhoda, Sonipat

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

“2. That the instant FIR came into being on the basis of complaint made by complainant Nitish Kumar son of Shri Lalan Yadav, resident of Khempur, District Samastipur, Bihar, stating therein that he is employed as driver on the truck of Parminder Singh son of Suchha Singh, resident of Sherpur Sekh, District Jalandhar, Punjab for the last 3-4 months. On 28.06.2023, after loading 30 tons of rice in Truck bearing registration No. UP-33AT-7960 from Taran Tarn, Punjab, he had started for Alipur, Delhi and he was alone in the said truck. He further stated that during the night of 30.06.2023, at about 12.00 midnight, he had stopped the said truck village Janti turn, G.T. Road, Kundli. In the meantime, 2/3 persons opened the window of his Truck and entered into the said truck and started inflicting injuries to him with kick and fist blows. One person out of the assailants pressed her neck and pushed him down and thereafter, they while giving beatings to him took his truck to an abandoned place, where they boarded him in a white colour Car after tying him and left away him at an unknown place. The said persons forcibly snatched his vehicle along with the rice loaded in the same. They also took away his mobile phone bearing No.97818xxxxx, his Aadhar Card, his driving licence and original documents of said truck. Thereafter, he took mobile phone of some passerby and made phone call to his employer namely Parminder Singh, upon which his employer came from Punjab. The complainant further stated that he can identify the assailants, if brought before him. With these allegations, the complainant sought for legal action against the accused persons.”

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 submits that petitioner has the massive criminal history and he is not entitled to bail and regarding delay in trial and existing custody for 01 year & 06 months, State counsel submits that State shall not seek any

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adjournment before the trial Court.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“EXACT ROLE OF THE PETITIONER

10. That the accused Anil @ Kaku son of Jai Bhagwan R/o Depalpur, Sonipat, Gurnam @ Bholu son of Harish resident of village Tewari, Sonipat, Dheeraj son of Harjender R/o village Rajlu Garhi, Sonipat, Sachin @ Situ son of Balibir resident of village Bhadhana and Pawan @ Pona were good friends of each other. As per plan on dated 03.06.2023, all accused hatched conspiracy to loot the trucks and will be sold out the looted goods and will be distributed the amount between them. According to their plan, Anil @ Kaku, Gurnam and Dheeraj were searching the truck in vehicle bearing no. HR-56DL-9325 of Anil (Car I-20). At about 12:00, one truck had stopped at Janti turn, GT. Road Kundli and trio had entered into the truck. They gave beating to the driver of the truck and also snatched his Mobile, Adhar card, Driving Licence and original documents. That they said to Dheeraj to come behind the truck. Thereafter, they had shifted the driver of truck in Dheeraj's car, Anil and Gurnam had taken the truck. The petitioner and Dheeraj had left driver of the truck at abandoned place at Village Halalpur, Sonipat, they tried to sell the looted rice but not succeed. They had told these facts to Sachin @ Situ and Pawan @ Pona in respect of truck looted by them. Sachin @ Situ and Pawan @ Pona gave assurance to sell the looted rice. That Sachin @ Situ and Pawan @ Pona had sold out the rice bags to his known person at Brahmanwa, Rohtak, Bisar Akabarpur and Mewat. Sachin and Pawan told that they had sold out the rice in sum of Rs. 5,60,000/-. The petitioner and other accused said to Sachin and Pawan to hand over Rs. 5,00,000/- to them after keeping Rs. 60,000/- with them. On which Sachin had sent Rs. 54,000/ through Google pay on the number i.e. 70275xxxxx of the petitioner from his mobile no. 90505xxxxx, and Rs. 93,000/- has transfer on the google pay account of Dheeraj vide google pay mobile no.82228xxxxx and remaining Rs. 3,53,000/- had given to them in cash. Faruk @ Fakru @ Faizal resident village Ghatimika Mewat is the known of the petitioner. Anil, Gurnam and Dheeraj and they had said to him to sell the looted truck and Faruk gave assurance to purchase the looted truck in cheap rate, and matter was settled in Rs. 4,00,000/- but Faruk had given only Rs. 2,85,000/- and refused to pay remaining amount and in this the petitioner and other accused had obtained only Rs. 7,85,000/- and they had distributed the said amount and every accused including

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petitioner get Rs. 1,96,000/-. The petitioner had spent some amount and having only Rs. 80,000/- in his possession. That Rs. 80,000/- were recovered from the petitioner. Copy of disclosure statement of the petitioner is annexed as Annexure R-1, and custody certificate of the petitioner is annexed as Annexure R-2.”

7. Even if this Court ignores the criminal history and is willing to grant bail on pre-trial custody, the one of the factors which forces this Court to deny the bail, the manner in which the crime was committed. If a lenient approach is taken towards such crime, it would make our highways which serves as the lifeline of any society extremely unsafe. The petitioner’s conduct points towards cruelty and he is not entitled to bail.

8. In *Maulana Mohd Amir Rashadi v. State of U.P.*, (2012) 3 SCC 382, Hon’ble Supreme Court holds,

[10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

9. In *Jogindro Bai v. State of Haryana*, CRM-M-51218-2024, decided on 29.11.2024, Neutral Citation No. 2024:PHHC:162096, this Court observed,

[17]. Adjudicating a bail petition of an accused with a prior criminal record places a significant and exacting responsibility on courts to exercise judicial discretion in a manner that is both reasoned balanced to consider the countervailing impacts on the freedom of an accused and that of society and free from arbitrariness, as arbitrariness is antithetical to the rule of law. As a natural corollary, consideration of an accused's criminal history should be limited to cases where convictions have been secured, including those resulting in suspended sentences, and all pending First Information Reports (FIRs) in which the petitioner is formally arraigned as an accused. However, cases that culminated in acquittals, discharges, quashed FIRs, withdrawals of prosecution, or the filing of closure reports by the investigative authorities must be excluded.

[18]. Although the legal system upholds the principle that crime, not the individual, should be condemned, the contours of a playing field are marshy, and the graver the criminal history, the slushier the puddles, and a recidivist often operates on precarious ground, where the weight of a significant criminal record creates an increasingly challenging terrain. Nonetheless, where the offense for which bail is sought is minor, such that arrest is generally unwarranted, or bail would ordinarily be inevitable, courts must not deny bail solely as a punitive measure intended to serve as a pre-trial deterrent. Such an approach contravenes the judiciary's obligation to uphold the foundational principles of justice and equity in bail proceedings.

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Another reason that dis-entitles for bail is the criminal antecedents. Considering the bail petition of an accused with a criminal history throws an onerous responsibility upon the courts to act judiciously and reasonably because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecution resulting in acquittal or discharge, or when Courts quashed the FIR, the prosecution stands withdrawn, or the prosecution filed a closure report, cannot be included. Although crime is to be despised and not criminal, for a recidivist, the contours of a playing field are marshy, and the graver the criminal history, the slushier the puddles. If the petitioner is granted bail, he will likely re-indulge in the crime.

10. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

11. The petitioner's custody of 01 year, 04 months & 05 days cannot be termed prolonged, given the minimum sentence prescribed for the offense, the cruelty involved, and the petitioner's massive criminal antecedents.

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

13. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

29.01.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.