

CRM-M-57527-2024
Reserved on: 07.01.2025
Pronounced on: 30.01.2025

...Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashok Kumar, Advocate for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0017	20.01.2024	Sadar Kaithal, District Kaithal	323, 342, 380, 458 and 511 IPC (Sections 395, 397 and 506 IPC added later on)

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

2. As per paragraph 12 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	15	20.01.2024	342, 380, 458, 506, 395, 411 and 120-B IPC and Sections 136 and 137 of Electricity Act	Guhla, District Kaithal

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

“That briefly the facts of the case are that, on 20.01.2024 information was received by police at Police Post Keorak from complainant Naresh Kumar son of Kishna Ram resident of Village Nauch, District Kaithal that he is working as security Guard at unoperated Rice Mill Walkin Agro Rice Mill, in Village Nauch through Stalwart Security Services India Limited since last 4-5 years. Apart from him, his co-villager Satbir son of Inder Singh and Sanjay son of Jarnail Singh are also working as security guard through said agency in 8 hours shift each. On the intervening night of 19/20-01-2024, complainant was working in

said rice mill in night shift and was lying in one room constructed near weighing machine/Kanta. It is further alleged that on that night at about 10:30 p.m., 5-6 persons climbed the wall and came inside near him, as the main gate was locked. Complainant got scared and when he called out for help, one of them hit him with a stick on his right leg and asked him to keep quiet. After that he sat quietly. Two of the accused sat beside him and rest went inside the mill. They also tied his hands and feet. After about 2 hours, they all left from there. After that complainant called Satbir, the other guard with him, on his mobile number 98125-xxxx and narrated the entire incident. Both of them also came on the spot. Then all three of them together checked the entire mill and came to know that an attempt was made to open big transformer kept inside the mill. But nothing was found stolen. The glass of the room was found broken and an iron cupboard was also found open. The keys were still inside. Looking at it, it seemed that nothing was kept in it because Rajesh Raj Rana visits mill occasionally. With these allegations prayer for taking legal action against the unknown thieves is made. The injured complainant also produced his medico legal report NK/28/CHKTL/2024 Dt.20/01/2024 to police. On this basis, instant FIR was registered under Section 323, 342, 380, 458, 511 IPC and the matter was investigated”

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 reply.

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

“5. That the petitioner-accused is involved in commission of serious offences, and petitioner along with other co-accused were arrested along with tools for committing similar theft on the same day, in case FIR No.15 dated 20.01.2024. The petitioner-accused is habitual offender. Other co-accused persons are yet to be arrested in this case and if the petitioner accused is enlarged on bail, the petitioner-accused will create hurdle in their arrest. It is further submitted that the antecedents of the petitioner/accused are bad and if petitioner-accused is released on bail, then there is every possibility that he shall breach the conditions of bail bond and may abscond.”

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. Per paragraph 05 of the bail petition, the petitioner has been in custody since 28.02.2024. Per the custody certificate dated 06.01.2025, the petitioner's total custody in this FIR is 10 months 22 days. 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, subject to the compliance of terms and conditions mentioned in this order.

8. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

9. 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.

10. 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.

11. 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)	

12. This order is subject to the petitioner's complying with the following terms.

13. 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.

14. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

16. 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

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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.

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

(ANOOP CHITKARA)
JUDGE

30.01.2025
M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No.