

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58423-2024
Reserved on: 15.01.2025
Pronounced on: 29.01.2025

Vicky Rajput alias Vikram Rana ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Narinder S. Lucky, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0172	29.08.2023	City Phagwara, Tehsil & District Kapurthala	323, 324, 326, 427, 148 & 149 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.

2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents. However, in para 12 of the reply , it has been mentioned that one more case is pending against the petitioner, which reads as under:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1	184	20.09.2024	452, 323, 506, 427, 148, 149, 294 IPC	City Phagwara

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

“4. That the present FIR has been registered at the instance of Sahil Bagga son of Ashwani Kumar. That the complainant stated that on 27.08.2023 at about 10:45 PM, he along with his brother Mayank Arora came home from Jalandhar in car and his brother Mayank Arora got out of the car and went home and he started to park his vehicle in the garage.
5. That then Himanshu son of Vijay Kumar resident of Street No. 08 Mohalla Prempura Phagwara Police Station City Phagwara District Kapurthala, who was holding Datar in his hand, Manav Hansjit resident of Mohalla Rattanpura Phagwara was holding Datar in his hand, Karan

S/O Sunil Kumar resident of Preet Nagar Phagwara CZUZ4 was holding Kirpan in his hand, Sukha resident of Prempura Phagwara holding Kirpan in his hand, Sahil Thapar alias Crispy resident of Hadiabad was holding Kirpan in his hand, Lucky Bhogal resident of Fatehgarh was holding Kirpan in his hand and Vicky Rajput, present petitioner, resident J.C.T Mill Phagwara was holding Kirpan in his hand, came on their motorcycles.

6. That then Himanshu raised Lalkara to catch hold of the complainant and then Himanshu attacked his right leg with his Datar, but it hit below his right knee, which cut his leg and he fell down. Then Manav hit him with his Datar on the head, on which the complainant put his right hand forward to save himself which hit on his right arm. Then Karan hit him with his Sword, which hit his left arm."

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:

"7. That while he fell down and Sukha, Sahil Thapar @ Crispy, Vicky Rajput, present petitioner, and Lucky Bhogal gave me beatings and hurl abuses. Then all Accused persons smashed his car number PB 09AD 5166 1-20 color white with Datar and brick blows. The complainant then raised alarm "mar dita-mar dita", and all the accused persons ran away with their weapons. While they were beating the complainant his gold chain also fell somewhere."

7. A perusal of the FIR and the reply does not point towards any motive. Further despite the accused armed with deadly weapons, they aimed at the legs. Although there is allegation against Manav/co-accused that he had tried to hit on the head and the complainant had saved himself from such attack by bringing his hand in between but such allegations are not against the petitioner, as such petitioner cannot be set liable and prima facie cannot be denied bail because the co-accused/Manav had hit the complainant on his head. Further he is a first offender and this Court wants to grant one opportunity to course correct.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked 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 custodial interrogation or the 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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/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. 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. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

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 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 firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a 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 of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under 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. **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 have the liberty to cancel this bail.**

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 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

29.01.2025

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Whether speaking/reasoned: Yes

Whether reportable: No.