

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-44990-2024
Reserved on: 11.11.2024
Pronounced on: 29.11.2024

Arshdeep Singh @ Arsh and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rajat Dogra, Advocate for the petitioners.

Mr. Jasjit Singh, DAG, Punjab.

Mr. D.S.Virk, Advocate for the complainant.

ANOOP CHITKARA, J.

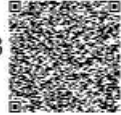
FIR No.	Dated	Police Station	Sections
80	19.07.2024	Bhikhiwind, District Tarn Taran	108 of BNS, 2023, 27 of Arms Act (Section 61 of BNS, 2023 added later on)

1. The petitioners apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 18 of the bail petition, the accused declares that he has no criminal antecedents.

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

“4. That the true facts pertaining to the present case are that one Ramandeep Kaur wife of Mandeep Singh, resident of village Rajoke, PS Khalra, District Tarn Taran got recorded her statement before the investigation officer to the effect that she was married with Mandeep Singh in the year 1996. She has two children i.e. son Mankarandeep Singh and daughter Armandeep Kaur and both are living in Canada. Her husband Mandeep Singh was doing agricultural work and he was also a property consultant and he was doing property business along with Prabhjit Singh and Paramjit Singh sons of Bakshish Singh, resident of Sandpura Colony, Bhikhiwind and they were having dealings with each other. Her husband used to discuss with her that Prabhjit Singh and others are not returning the money and they have misappropriated his money and he said that he is very disturbed by saying that today for the last time,



he will ask Prabhjit Singh and Paramjit Singh sons of Bakshish Singh, Amarbir Singh son of Paramjit Singh, Arsh and Harman sons of Prabhjit Singh, resident of Sandpura Colony, Bhikhiwind, whether they are going to return him the money or not and in case, they failed to do so he would commit suicide and he said that he has sent the message in writing on the whatsapp number of Prabhjit Singh and Paramjit Singh. Regarding this, she had told her brother-in-law Tejbir Singh son of Balbir Singh, resident of Bagga Kalan, Tehsil Lopoke, District Amritsar (Rural). Now, she came to know that yesterday night at 8.00 P.M, her husband Mandeep Singh shot himself with his licensed revolver in the house of his friend Surinder Singh @ Shinda, resident of Pahuwind and committed suicide. Her husband Mandeep Singh has committed suicide as he was disturbed by Prabhjit Singh and Paramjit Singh sons of Bakshish Singh, Amarbir Singh son of Paramjit Singh, Arsh and Harman Singh sons of Prabhjit Singh, all residents of Sandpura Colony, Bhikhiwind and in this regard, the present case FIR No.80 dated 19.07.2024, under section 108 of B.N.S & 27 of the Arms Act has been registered at Police Station Bhikhiwind, District Tarn Taran against the petitioners namely Arshdeep Singh alias Arsh and Harman Singh as well as co-accused namely Prabhjeet Singh, Paramjit Singh and Amarbir Singh. It is submitted that as per the post mortem report of the deceased, the cause of death as per the opinion of Board of Doctors is "due to Head injury resulting from Gunshot which is sufficient to cause death in this case.

5. That during the course of investigation, the investigating officer reached at the place of occurrence where the complainant namely Ramandeep Kaur produced one suicide note of the deceased Mandeep Singh written by the deceased with his own hand writing. Further, the investigating officer got recovered revolver 32 bore and on unloading the same, 4 live cartridge and 2 empty cartridges were recovered and further, the investigating officer also took into possession the mobile phone of the deceased and after procuring the call detail record of the deceased Mandeep Singh, a total of 296 phone calls were found to have taken place between deceased Mandeep Singh and Prabhjit Singh and Paramjit Singh within two months."

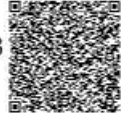
4. The State's counsel opposes bail and refers to the short reply.

5. 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.

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

"10. ROLE OF THE PETITIONERS

That it is submitted that the petitioners have committed a serious offence as the deceased Mandeep Singh was under great mental stress due to his downfall in his business because of petitioners as well as co-accused. The deceased Mandeep Singh ended his life by firing a shot on his head from his revolver. As such, the petitioners are not entitled for the concession of



anticipatory bail.

EVIDENCE AGAINST THE PETITIONERS

That it is submitted that during investigation, the statement of eye witness namely Surinderbir Singh alias Shinda was recorded in which he stated that the deceased leveled allegations against the petitioners and co-accused and he also ended his life due to them only and further, the suicide note written by the deceased Mandeep Singh has also been recovered in the present case which clearly showed that the petitioners as well as co-accused were responsible for his death and further, the phone calls made by the deceased Mandeep Singh on the mobile phone of the co-accused also directly linked the petitioners as well as co-accused with the present offence. As such, there is sufficient evidence on record against the petitioners and they are not entitled for the concession of pre-arrest bail.”

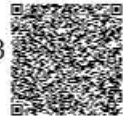
7. The complainant's counsel made the following submissions:

“Dying Declaration made by deceased to Surinder Bir Singh @ Shinda (Friend of Deceased) that he was very sad due to Paramjeet Singh, Prabhjeet Singh and their sons Amarbir Singh, Arshdeep Singh @ Arsh and Harman residents of Bhikhiwind as they have grabbed Rs.80 Lac from him, which they are not returning back. His business is ruined because of them and he does not want to live anymore. He has sent message to the said accused persons that he will commit suicide and have also written the same in his Diary that they would be responsible for his death. By saying this, he took out his pistol and tried to shot himself. Surinderbir Singh tried to snatch pistol from him, upon which, during this scuffle, one shot fired by Mandeep Singh hit on the face of Surinderbir Singh and another bullet shot by Mandeep Singh hit in his head due to which he (Mandeep Singh) died on the spot.

Accused persons and their role

<i>Accused</i>	<i>Role</i>
<i>Prabhjeet Singh</i>	<i>Usurped Rs.80 Lacs from the deceased, ruined his business and was not returning the same despite various requests.</i>
<i>Paramjeet Singh</i>	<i>Usurped Rs.80 Lacs from the deceased, ruined his business and was not returning the same despite various requests.</i>
<i>Arsheep Singh @ Arsh</i>	<i>Usurped Rs.80 Lacs from the deceased, ruined his business and was not returning the same despite various requests. On the day of occurrence, deceased talked to him over telephone, which became immediate cause of his suicide.</i>
<i>Amarbir Singh</i>	<i>Usurped Rs.80 Lacs from the deceased, ruined his business and was not returning the same despite various requests.</i>
<i>Harman Singh</i>	<i>Usurped Rs.80 Lacs from the deceased, ruined his business and was not returning the same despite various requests.</i>

8. The allegations made in the suicide note would not justify the petitioner’s custodial interrogation or pre-trial incarceration.



9. However, given the allegations of cheating and misappropriation, or mistrust, the concerned Superintendent of Police shall constitute an SIT headed at least by an officer of the rank of DySP, and the SIT shall carry out further investigation.

10. There is another reason not to deny bail to the petitioners, which is as follows:

11. There are specific allegations against the petitioners usurping and retaining the money of the deceased, but the instigation to commit suicide would not have come if the laws were suitably drafted and enacted to tackle and deal with this kind of situation. Even the newly drafted BNS has not incorporated any changes to deal with these situations. The victim might not have committed suicide if there had been a proper order put in place to deal with this kind of misappropriation. Without adequate and proper laws, even the Police would be helpless. Considering this factual and ground reality, the entire burden of abetment and instigation cannot be shifted upon the petitioners alone.

12. 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.

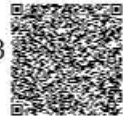
13. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage.

14. 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.

15. Given above, provided the petitioner is not required in any other case, the petitioners 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 fail to appear, such surety can produce the accused.

16. While furnishing a personal bond, the petitioners 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	



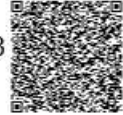
	considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

17. This order is subject to the petitioner's complying with the following terms. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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.

18. The petitioners are 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 petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners 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 petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

19. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners 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 (CrI.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

20. Given the background of allegations against the petitioners, it becomes paramount to protect the victim's 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.

21. 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."

22. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

23. This bail is conditional, and the foundational condition is that if the petitioners indulge 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.

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

25. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners 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.

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

(ANOOP CHITKARA)
JUDGE

29.11.2024

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: YES.