

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53807-2024
Reserved on: 09.01.2025
Pronounced on: 28.01.2025

Rahul @ Pakoda ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manvender S.Chauhan, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
24	27.01.2024	Barauda, District Sonipat	120-B, 148, 149, 302, 506 IPC and Sections 25, 54, 59 of Arms Act

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. In paragraph 11 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	85	23.04.2019	29, 25, 54, 59 of Arms Act	Baroda, Distt. Sonipat
2.	704	06.12.2018	25, 54, 59 of Arms Act	City Gohana, Distt. Sonipat
3.	65	17.02.2023	323, 506, 34 IPC	Baroda, Distt. Sonipat

3. The facts of the case are being taken from the FIR (Annexure P-1), which reads as follows:

"To respected SHO, PS Barauda, it is requested that, I Sahil son of Surender resident of Barauda Thuthan, PS Barauda, and I am doing agriculturist work with my father, that one or one and half year ago, I had an altercation with Rahul @ Pakoda and Rohit sons of Raghbir resident of Barauda Thuthan. Due to which these had grudges against me and my

father. Today on 27.01.2024 at around 12:30/12:45 PM, I was having meal, then Mohit son of Ajmer, resident of Baraudamorh came to call my father and took my father on his motorcycle outside of our house. When I got suspicious, I and my grandfather namely Rajbir Singh S/o Chandgi Ram start following them on my motorcycle, Mohit took my father near stadium of our village. Where Sumit son of Raj Kumar, Sachin son of Dharambur R/o Ahluana, which is of our neighbor village and Khush s/o Satpal of our village were already standing there. They all took my father to open space behind the stadium. While seeing of us, Sumit son of Raj Kumar and Sachin son of Dharambir, resident of Village Ahluana caught my father and Khush son of Satpal took out his weapon from his possession and shot my father and then Sumit S/o Raj Kumar took weapon and then shot and when I and my grandfather ran towards them to save, they saw us and start running. And while leaving they said, see this is the result of having enmity with Rahul alias Pakoda and Rohit sons of Raghbir and fled away while threatening to kill me and my grandfather on their motorcycle. I and my grandfather started taking care of my father. These abovementioned culprits have conspired with each other and shot my father dead. Now I am requesting to take action by submitting complaint after arriving of my relatives. Legal action should be taken against all the above culprits.”

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 his 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:

“3. That during investigation, the place of occurrence was inspected in the presence of FSL Team and its rough site plan was prepared. The blood stained earth and two empty cartridges lying at the spot were lifted and taken into possession. Inquest proceedings under Section 174 Cr.P.C. pertaining to death of deceased Surrender were conducted. Postmortem examination on the dead body of deceased was got conducted and as per postmortem report, total five external injuries were found on the person of deceased Surrender and cause of death in this case was opined to be

firearm injuries and its complications and all the injuries were ante-mortem in nature. However, viscera was preserved from chemical analysis. The parcels handed over by the Doctor were taken into possession. Statements of witnesses were recorded.

4. That on 28.01.2024, petitioner/accused Rahul @ Pakoda was arrested in the present case and on interrogation, he suffered disclosure statement and admitted his guilt and also disclosed that he is friend of co-accused Sumit son of Raj Kumar, Mohit son of Ajmer, Kush son of Satpal and Sachin son of Dharambir. About 1 - 1½ years ago, he had altercation with complainant Sahil son of Surender, due to which he was nursing grudge against said Sahil and his father Surender, which was also disclosed by him to his above named friends. Petitioner/accused Rahul @ Pakoda further disclosed that on 26.01.2024, he along with his friends Sumit, Mohit, Kush and Sachin had consumed liquor, where they had hatched the conspiracy that co-accused Mohit will call/bring father of Sahil namely Surender from their house on some excuse and will bring him behind the stadium of their village and will make him busy in talks and thereafter, Sumit and Sachin will catch hold of Surender and in the meantime, Kush will fire gunshots at Surender and thereafter, they will flee away from the spot and thereafter, he (petitioner) will defend their case and will incur all the expenses. After hatching this conspiracy, they all had parted away. Petitioner/accused Rahul @ Pakoda further disclosed that thereafter on 27.01.2024, as per their conspiracy, co-accused Mohit had taken away deceased Surender behind the stadium of their village, where other co-accused Sumit, Mohit, Kush and Sachin had murdered Surender by firing gunshots at him. Thereafter, other co-accused had telephonically informed him (petitioner) that they have already murdered Surender, upon which he (petitioner) asked them to flee away and he will manage all the subsequent proceedings. He further disclosed that when he came to know that complainant Sahil also taken his name in his complaint, he had absconded after concealing his mobile phone. In pursuance of his disclosure statement, petitioner/accused Rahul @ Pakoda got recovered his mobile phone.

5. That during investigation, co-accused Mohit son of Ajmer, Sumit son of Raj Kumar, Sachin son of Dharambir and Kush son of Satpal were arrested in another case bearing FIR No.23 dated 27.01.2024, under Sections 379-B/34 IPC and 25 Arms Act, Police Station Baroda, Sonipat, in which they suffered their respective disclosure statements admitting having

committed the offence pertaining to present case also and to have already got recovered the country made pistol used in the present case, in said case bearing FIR No.23 dated 27.01.2024, under Sections 379-B/34 IPC and 25 Arms Act, Police Station Baroda, Sonipat. Thereafter, production warrants of accused Mohit, Sumit, Sachin and Kush were got issued from the learned Court for 14.03.2024, on which date, they were joined in the investigation of present case with the permission of learned Court and accused Mohit, Sumit, Sachin and Kush were arrested in the present case on 14.03.2024. On interrogation, accused Mohit, Sumit, Sachin and Kush suffered their respective disclosure statements and admitted their guilt, pursuant to which they got demarcated the place of occurrence. In pursuance of his disclosure statement, accused Sumit got recovered motorcycle bearing registration No.HR-15A-5449 used at the time of crime, which was taken into possession. During investigation, the country made pistol used by accused persons in the present case, was got transferred from FIR No.23 dated 27.01.2024, under Sections 379-B/34 IPC and 25 Arms Act, Police Station Baroda, Sonipat, which was got recovered by accused Kush in the said case. The relevant documents pertaining to FIR No.23 dated 27.01.2024 were also obtained and taken into possession.

6. That during investigation, the scaled site plan of the place of occurrence was got prepared. The case property was deposited with FSL, Madhuban. Statements of witnesses were recorded, but from the evidence collected so far in the present case, no incriminating evidence was found to effect the arrest of Rohit son of Raghbir. Statements of witnesses were recorded and other relevant evidence was collected and after completion of investigation, report under Section 173 Cr.P.C. was submitted in the Court against accused Mohit, Sumit, Sachin, Kush and Rahul @ Pakoda (petitioner) on 24.04.2024, under Sections 148/149/120-B/302/506 IPC and 25 Arms Act and after framing of charges against them vide order dated 25.07.2024 under Sections 148, 302, 120-B, 506 read with Section 149 IPC and 25(1-B) Arms Act, now the said case is pending in the Court of learned Additional Sessions Judge, Sonipat for 12.02.2025 for prosecution evidence. There are 24 witnesses in this case and all the witnesses are yet to be examined in the present case.

7. That in the instant case, there are direct and specific allegations and sufficient evidence against petitioner regarding his involvement in the present case. He is specifically named in the FIR as well as statements of

witnesses. A specific role has been attributed to petitioner regarding his involvement in the above mentioned crime. Petitioner/accused Rahul @ Pakoda is the kingpin of the crime in question, as he had motive for the above mentioned crime, due to previous altercation with complainant Sahil, due to which petitioner was nursing grudge against complainant and his father i.e. deceased Surrender. Petitioner along with co-accused had hatched the conspiracy to commit the murder of deceased Surrender and in execution of the said meeting of minds, accused Mohit son of Ajmer brought the deceased to the spot from his house, where co-accused Sumit, Sachin and Kush had murdered him. Though, petitioner was not present at the spot, but it was petitioner only, who was nursing grudge against deceased Surrender and complainant Sahil and it was the conspiracy hatched by petitioner, in execution of which the above said murder was committed. xxx xxx”

7. The petitioner is the main accused because he had the enmity which led to killing. The petitioner was not only named in the FIR but he had the motive. Although, the petitioner was not present at the spot but the entire conspiracy was hatched at his instance and there is sufficient evidence against him. In addition to the present case, the petitioner has massive criminal history of cases referred to physical assaults, Arms Act and snatching.

8. 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.

9. The petitioner's custody of around 11 months and 12 days cannot be termed prolonged, given the minimum sentence prescribed for the offense, which is life imprisonment.

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

11. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

28.01.2025/Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.