

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52425-2024
Reserved on: 13.01.2025
Pronounced on: 27.01.2025

Jagtar Singh @ Kala ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ankit Sharma, Advocate for
Mr. Mandeep Kumar Dhot, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
110	12.06.2023	Lehra, District Sangrur	458, 324, 307, 341, 201, 148, 149 IPC

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 CrPC, seeking regular bail.
2. In paragraph 05 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. xxx xxx the brief facts of present No.FIR No.110 dated 12.06.2023 u/s 458, 324, 307, 341, 148, 149 IPC P.S. Lehra, District Sangrur are that the present FIR was registered against Nikka Singh son of Bhola Singh, Gursewak Singh son of Bhola Singh residents of Bhai Ki Pishor, P.S. Lehra, District Sangrur and un-known person(s) on the basis of statement of Binder Singh son of Maghi Singh resident of Bhai Ki Pishor to the effect that on 11.06.2023, at about 11:30 P.M., Nikka Singh, Gursewak Singh and 5/6 unknown persons entered into the house of his brother Bhola Singh, who rescued himself by closing the door from inside and then the said persons threw bricks/stones on the windows/door of the house, then Bhola Singh raised alarm and the aforesaid persons ran away from the

spot and thereafter, he (Binder Singh) and his nephew Kalu Singh, Gurdeep Singh and Sagar Singh were going to the police station then Nikka Singh and others surrounded them and Nikka Singh hit Kalu Singh with sword on his head, then Gursewak Singh hit Kalu Singh with sword on his head and then Binder Singh tried to rescue him (Kalu Singh), then Nikka Singh hit Binder Singh with sword on his left elbow. On raising alarm, aforesaid persons ran away from the spot along with weapons. The motive behind is that, Gursewak Singh did something wrong to a girl from our houses 2/3 months ago and we used to stop him from doing so. Due to this reason Gursewak Singh and his companions gave beatings to them with the intention to kill to them.”

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:

“5. That accused Gursewak Singh was arrested on 17.06.2023. During interrogation he disclosed that the weapons which were used in the crime by four of us, were thrown in the Bhakhra Canal. Due to non recovery of weapon, offence u/s 201 IPC was added.

On 18.06.2023 Binder Singh (complainant of the case) recorded his supplementary statement before the I.O. that he made inquiry regarding the un-known person(s) involved in the crime and came to know that the name of two persons are as Maninder Singh son of Tarsem Singh resident of Chhahar and Jagtar Singh @ Kala son of Janta Singh resident of Nangla. Action be taken against them. On the basis of said statement of Binder Singh, the persons namely Maninder Singh and Jagtar Singh @ Kala (now petitioner) were nominated as accused in this case. During ongoing investigation person namely Maninder Singh and Gurpreet Singh @ Nikka were found as Juvenile. Due to which they were joined the investigation on 18.06.2023 and were produced before the Court of Ld. Juvenile Justice Board and with the permission of Court, they were lodged in Home Observation, Ludhiana.

10. ROLE OF THE PETITIONER

The present FIR was registered against accused Gursewak Singh and Nikka Singh (later on verified as Gurpreet Singh @Nikka) and un-known person(s) on the basis of statement of Binder Singh son of Maghi. During investigation on the basis of supplementary statement made by complainant Binder Singh, the persons namely Maninder Singh and Jagtar Singh @ Kala (now petitioner) were nominated as accused in this case. It was duly substantiated that on 11.06.2023, all the four accused including present petitioner Jagtar Singh @ Kala forcibly entered into the house of Bhola Singh (brother of complainant) and threw bricks/stones on the windows/door of the house. On the same day i.e. 11.06.2023, when complainant alongwith Malkit Singh @ Kalu, Gurdeep Singh and Sagar Singh were going to the police station, then on the way, all the four accused including present petitioner Jagtar Singh @ Kala gave beatings to the complainant Binder Singh and his nephew Malkit Singh @ Kalu and inflicted 2 injuries to Binder Singh and 10 injuries to Malkit Singh @ Kalu with the intention to kill them. Out of 10 injuries on the person of Malkit Singh @ Kalu, injuries no. 1 to 7 were declared by the doctor as grievous in nature. Accused/petitioner Jagtar Singh @ Kala inflicted injuries no. 5 and 6 (as per detail facts given in para no. 7 above) on the person of Malkit Singh @ Kalu with the intention to kill him. So, a specific role is attributed to the petitioner in the commission of present serious offence.”

7. The incident was of 12.06.2023 and the petitioner was named in a supplementary statement dated 13.06.2023. Despite that, the petitioner was arrested on 07.02.2024 i.e. after 08 months. Furthermore, the petitioner’s custody is slightly less than one year, on this ground alone, it is not a case for custodial interrogation or pre-trial incarceration.

8. 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.

9. As per paragraph 3 (III) of the bail petition, the petitioner has been in custody since 07.02.2024. As per the same, the petitioner’s total custody in this FIR is around eleven months.

10. 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 further pre-trial incarceration at this stage.

11. 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.

12. 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 Ilqa 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.

13. 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)	

14. This order is subject to the petitioner’s complying with the following terms.

15. 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.

16. 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.

17. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, and their 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.

18. 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."

19. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

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

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

22. 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.

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

(ANOOP CHITKARA)
JUDGE

27.01.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.