

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53556-2024
Reserved on: 09.01.2025
Pronounced on: 28.01.2025

Pardeep Kumar @ Kala ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nirmal Singh, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
139	27.07.2024	Panjokhara, District Ambala	118(1), 351(2), 61 of BNS (Section 61 of BNS deleted and Section 118(2) of BNS added later on)

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. As per paragraph 10 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	54	24.05.2021	160, 186 IPC	Panjokhra
2.	57	26.05.2021	148, 149, 323, 325, 506 IPC	Panjokhra
3.	67	24.03.2022	406, 420 IPC	Panjokhra
4.	104	06.05.2022	148, 149, 325, 506 IPC & 25/54/59 of Arms Act	Panjokhra
5.	103	19.06.2024	323, 506, 34 IPC	Panjokhra

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

“3. That as a matter of fact, on 27.07.2024, a telephonic information has been received in the Police Post Patvi, PS Panjokhra from the CHC, Shahzadpur that injured Satish Kumar son of Siya Ram r/o village Tasdauli, PS Panjokhra, Ambala is admitted in the CHC Shahzadpur and he

has been referred to Civil Hospital, Ambala City for further treatment, pleased send IO for investigation. Upon which, the IO reached at Civil Hospital, Ambala City and moved an application before the Medical Officer for giving permission for recording the statement of injured Satish Kumar and after due permission, IO recorded the statement of injured Satish Kumar. The contents of the statement is as under: "Statement of Satish Kumar S/o Siya Ram resident of village Tasdauli, Police Station Panjokhra District Ambala, Age 55 years, Mobile No. 94163-xxxx. Stated that I am a resident of the above mentioned name and address. I am an agriculturalist and I have bought land from Gurbaksh Singh S/o Haryam Singh resident of Tasdauli which is in the name of my daughter-in-law and we have been in possession of it for about 3 years but Gurbaksh Singh's nephew Pradeep Kumar, his mother Kulwinder Kaur and Pradeep's father Gurnam Singh are angry with me for taking this land and prevent me from entering the land. Regarding this, a few days ago Pradeep, his mother Kulwinder Kaur and father Gurnam Singh have also beaten my wife Sushma, in connection with which my wife Sushma has also filed a case against Pradeep and Kulwinder Kaur. About 4/5 days ago when I was going to the fields in the village, Pradeep, Kulwinder Kaur, Gurnam Singh and Pradeep's wife Kulwinder Kaur threatened me that they would make me pay for filing a case against me and buying our land. Today at about 10:15 AM, I was going from Janak Raj's fields towards the land that I had purchased, when I reached near Gauhar Musri's field, Pradeep came from the front on his tractor (New Holland 3630) and challenged me saying that today you are trapped alone, today I will make you pay for buying this land and filing a case against me, and he followed his tractor behind me and kept a tractor about one Kila behind me and kept abusing me and I got tired and sit near the tubewell and when I sit, Pradeep attacked me with an axe on my right arm, left hand, head and left leg. When I shouted for help, my neighbour Rajesh Kumar, Jaitinder S/o Ram Kumar, my brother Karambir and my son Vijay Kumar came to the spot. After that my family members took me to the hospital. That Pradeep Kumar, his mother Kulwinder Kaur, Pradeep's wife Kulwinder Kaur and his father Gurnam Singh had attacked me as per a plan. Pradeep Kumar was threatening me while leaving that today, I have been saved but in future I will kill you and your family. Pradeep threatened Rajesh Kumar and Janak Raj that if anyone supports him then he will do the same to them as he did to Satish. You have written my statement in Civil Hospital Ambala City, read it heard

which is correct. Sd/-LTI Satish Kumar." IO also collected MLR (MLR No. SZP/27/07/2024/SD dated 24.07.2024) of the injured and on examination of the same, it is learnt that the doctor has mentioned a total 05 injuries on his person, out of which injury No. 1 & 5 were sharp weapon, and injury No. 2, 3 & 4 were blunt. Hence the present Case u/s 118(1), 351(2), 61 PS Panjokhra, Ambala. of B.N.S., 2023 has been registered at PS Panjokhra, Ambala."

4. Counsel for the petitioner has argued that the petitioner is a permanent resident of Ambala and he is sole bread earner. He has old parents, wife and a minor son aged 04 years. He further argued that complainant has given criminal colour to the civil proceedings and no suit for permanent injunction etc. was ever filed. He further argued that the complainant intentionally concealed the area of alleged land.

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 his family.

6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

"9. That it is submitted that on 02.09.2024, IO moved an application alongwith CT Scan report of the injured Satish Kumar before the Medical Officer, Civil Hospital, Ambala City for obtaining opinion of the doctor and after seeing all the medical history of the injured the doctor has opined that "x-ray advised. According to MLR prepared by me, I have mentioned 5 injuries. Injury no. 1- Grievous in nature, no.2- Simple, no.3 -Simple, no.4- Report pending, no.5-Simple. As per injury and x-ray report fracture nasal bones B/L present, injury is grievous in nature, not dangerous to life. As per file record Patient has comminuted fractured both bone forearm Right distal part with subluxation, old fracture left fibula and pott's fracture right ankle. As per ortho opinion comminuted fractured both bone forearm right distal part, subluxation and pott's fracture right ankle.

9. That as far as concerned the role of the accused-petitioner in the commission of present crime of the case is that the accused-petitioner has taken an active part in causing injuries upon the person of the complainant/injured Satish Kumar with axe duly recovered on his demarcation and also tried to run over the tractor over the

complainant/injured, and the same was got recovered on his demarcation and in this way, the accused-petitioner suffered injuries on the person of injured/complainant and has committed a grave offence, which effect the society and general public at large. It is also pertinent to mention here that on perusal of medical examination report of victim reveals that victim has received fracture injury on his nasal bone alongwith other parts of body and allegations under section 118(2) of BNS, 2023 is punishable with imprisonment for life or imprisonment of not less than one year but which may extend to 10 years and fine and is non bailable, however, the allegation under section 118(1) of BNS is punishable with imprisonment for three years or fine of Rs.20,000/- or both and is non bailable. Moreover, the fact that after being admitted to bail on previous occasion in the other cases registered against the accused-petitioner, the accused-petitioner has not been desisted from his criminal activity and has inflicted grievous injury upon victim/complainant, hence not entitled for regular bail and in case he may be released on bail, he may threat to the witnesses and may tamper with the prosecution evidence or may flee from the legal punishment.”

8. Although, the petitioner has criminal antecedents but considering the nature of allegations in the previous cases, this Court does not find any justifiable reason to continue the pre-trial custody and petitioner’s custody in the present FIR is slightly less than 06 months and the specific conditions can be imposed to ensure that the petitioner does not repeat the offence.

9. 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.

10. As per paragraph 2 of the bail petition, the petitioner has been in custody since 03.08.2024. As per the custody certificate dated 08.01.2025, the petitioner’s total custody in this FIR is five months and seven days.

11. 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.

12. 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.

13. 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.

14. 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)	

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

16. 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.

17. 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.

18. 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.

19. 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.”

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 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.

28.01.2025

Jyoti-II

(ANOOP CHITKARA)

JUDGE

Whether speaking/reasoned:

Yes

Whether reportable:

No.