

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55825-2024
Reserved on: 15.01.2025
Pronounced on: 27.01.2025

Dalvir Singh Chahal @ Mithu ...Petitioner

Versus

State of Punjab ...Respondent

CRM-M-56915-2024

Jagjiwan Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. V.P.S. Mithewal, Advocate and
Mr. Harsh Gupta, Advocate,
for the petitioner in CRM-M-55825-2024.

Mr. Manish Verma, Advocate,
for the petitioner in CRM-M-56915-2024.

Mr. Jasjit Singh, DAG, Punjab.

Mr. P.S. Punia, Advocate,
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
257	10.10.2024	Sahnewal, Ludhiana Distt. Police Commissionerate	329(3), 62, 324(4), 324(5), 303(2), 351(1), 351(3), 61(2), 191(3), 190 of BNS, 2023 and 25, 27 of Arms Act

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 8 of the bail petition i.e. CRM-M-55825-2024 and as per para 8 of the status report the accused has the following criminal antecedents:

CRM-M-55825-2024 and CRM-M-56915-2024

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	229	16.12.2020	436, 120-B IPC	Sahnewal, Distt. Police Commissionerate
2.	193	03.11.2020	323, 294, 295, 506, 34 IPC	Sahnewal, Distt. Police Commissionerate
3.	126	29.05.2019	447, 511, 427, 506, 148, 149 IPC, 25/27 of Arms Act	-
4.	142	25.07.2006	61 Excise Act	Sahnewal
5.	81	2010	15 of NDPS Act	Payal
6.	22	22.01.2011	307, 452, 427, 506 IPC	Payal
7.	198	-	436, 120-B IPC	Sahnewal
8.	242	-	447, 506, 511, 148, 149, 120-B IPC	Sahnewal, Ludhiana

3. In paragraph 2.14 of the bail petition i.e. CRM-M-56915-2024 and as per para 8 of the status report the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated/Year	Offenses	Police Station
1.	60	-	447, 511, 427, 506, 148, 149, 120-B IPC	Dehlon, Ludhiana
2.	126	29.05.2019	447, 511, 427, 506, 148, 149 IPC, 25/27/54/59 of Arms Act	Sahnewal, Ludhiana
3.	242	2022	447, 511, 427, 506, 120-B, 148, 149 IPC	Sahnewal, Ludhiana
4.	257	2022	447, 511, 427, 506, 120-B, 148, 149 IPC	Sahnewal, Ludhiana

4. The facts of the case are being taken from the translated copy of the FIR annexed in the bail petition i.e. CRM-M-55825-2024, which reads as follows:

“Statement of Mandeep Singh Son of Late Jagjit Singh Resident of Village Tibba Police Station Sahnewal District Ludhiana. Aged around 45 years, Mob No.97819-xxxxx, stated that I am a resident of the said address, I am engaged in agriculture, my land is near village Tibba Canal, where I have planted millet crop. On dated 23.08.2024 at around 07:00 AM I went to visit my land and I saw that Jagjeevan Singh son of Gurdeep Singh resident of House No. 62/2 GT Road Daba Road Ludhiana, Dalveer Singh alias Mithu son of Davinder Singh, Davinder Singh son of Malkit Singh Vasian Sahnewal district Ludhiana, Satveer Singh alias Lali son of Jeet Singh, Hinda Vasian village Paddi police station Dehle district Ludhiana along with 10/15 unknown persons Jagjeevan Singh was ploughing my millet crop with tractor. When I stopped him from doing so, Davinder Singh took out a revolver from his pocket and Satveer Singh alias Lali was

holding a rifle in his hand, who threatened me that if you went ahead, then we will kill you right here and throw you in the canal, so I was afraid. I couldn't do anything because they ploughed and destroyed my sown millet crop while I was watching. They broke my electricity connection in my meter which is in my name. The aforesaid people stole my agricultural implements people stole it and placed their container in my land with the intention of taking possession. Before this, the aforesaid people had tried to occupy this land of mine, regarding which on my statements FIR No: 60, 66/2015 Police Station Dehlo, FIR No: 126/2019, 229/2020, 242/2022 Police Station Sahnewal, Ludhiana were registered against them. The title of the land is in my name and I am in possession of the land. Who like this, the above accused repeatedly try to occupy my land. All the above accused are persons with criminal background. Till date I have personally inquired about 10/15 unknown persons but I could not find anything about those 10/15 unknown persons. Today I was going to the police station to report this incident station, you met me at Dharor Sua Pulli, Dehle Road, Sahnewal, Ludhiana. I have got my statement recorded with you, heard it read it and found it to be correct. Appropriate legal action be taken against the above accused. xxx xxx”

5. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.
6. The State’s counsel opposes bail and refers to the reply.
7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“5. ROLE OF THE PRESENT PETITIONER: in CRM-M-55825-2024

That the Petitioner/accused along with other co-accuseds namely co-accused Jagjiwan Singh, Davinder Singh, Satveer Singh alias Lali, Hinda and 10/15 unknown persons forcefully entered into the land of the complainant, they had threatened the complainant. The Petitioner/Accused with other co-accused ploughed and destroyed the millet crop sown on the land of the complainant. Furthermore, the Petitioner had stolen the Plough (suhaga) of the complainant.

5. ROLE OF THE PRESENT PETITIONER: in CRM-M-56915-2024

That the Petitioner/accused along with other co-accuseds namely co-

accused Dalveer Singh alias Mithu, Davinder Singh, Satveer Singh alias Lali, Hinda and 10/15 unknown persons forcefully entered into the land of the complainant, they had threatened the complainant. The Petitioner/Accused with other co-accused ploughed and destroyed the millet crop sown on the land of the complainant. Furthermore, the petitioner had stolen the Plough (suhaga) of the complainant.”

8. Counsel for the complainant has also opposed the bail and submits that the petitioners along with other co-accused destroyed the bajra crop and also threatened to kill him along with their weapons in order to dispossess the complainant from his land. But it is further relevant to mention that the petitioners along with other co-accused destroyed the complainant's motor connection and took along agricultural equipment of the complainant. He further submits that the complainant is in the possession of the land and whereas the revenue record the petitioners are shown as the owner of the disputed land and the Khasra Girdawari is forged and incorrect document. Further, the forged sale deed was executed by Bhag Singh in favour of Harvinder Singh. Therefore, the registered power of attorney executed by Harvinder Singh in favour of petitioners are a bogus document.

9. The incident took place on 23.08.2024 but the complainant reported the matter to the police only on 10.10.2024. There is no explanation for the delay. The delay gives a scope for deliberations which can be any improvements and concealments. Further, despite being armed with weapons, there is no allegation of any of the accused using the fire arms. Thus, in the entirety of facts and circumstances, given the delay and non-used of fire arms, although the allegations might be sufficient to launch prosecution or even to proceed with the trial but this Court is only considering the evidence for the purpose of bail and it is not case for custodial interrogation or pre-trial incarceration.

10. 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.

11. 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.

12. Without commenting on the case's merits, in the facts and circumstances

peculiar to this case, and for the reasons mentioned above, the petitioners make 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 petitioners are 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 Ilqa 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.

14. 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)	

15. This order is subject to the petitioners' 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.

16. 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.

17. 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 (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 petitioners, 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 petitioners 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 petitioners 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.

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. 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.

21. 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 have the liberty to cancel this bail.

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

23. 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.

24. **Petitions are 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.