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

**CRM-M-57039-2024
Reserved on: 03.02.2025
Pronounced on: 07.02.2025**

Ajay Kumar @ Dani ...Petitioner

Versus

State of Punjab …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Rubal Pawar, A.A.G. Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
75	08.06.2024	Goraya, District Jalandhar	304 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 8 of the bail petition, the accused declares that he has no criminal antecedents. However, as per para 14 of the status report and as per the custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	4	19.01.2019	61 of Excise Act	Goraya, Jalandhar (Rural)
2.	194	04.09.2020	22(b) of NDPS Act	Goraya, Jalandhar (Rural)
3.	306	20.11.2023	21(a) of NDPS Act	Phillaur, Jalandhar (Rural)
4.	48	06.03.2024	21(b) of NDPS Act	Phillaur, Jalandhar (Rural)

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

> *"4. That the FIR No.75 dated 08.06.2024 for offences u/s 304 IPC was registered at Police Station: Goraya, Jalandhar Rural on the basis of the statement given by complainant namely Neelam Rani to the effect that her husband namely Dinesh Kumar is fond of pigeon shows. On 06.06.2024 at*

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about 05:30 AM, Dinesh Kumar along with his friend Arun Kumar (son of Kundan Lal) and his pigeon had gone to village Dhaleta where Dinesh Kumar's sister namely Surinder Kaur lives. However, complainant's husband Dinesh Kumar did not return back in the evening. When the complainant contacted Arun Kumar, he told her that after the pigeon show, Dinesh Kumar had gone to his sister Surinder Kaur's house. When the complainant contacted Surinder Kaur, she told her that Dinesh Kumar never visited her house. The complainant got worried and made several calls on Dinesh Kumar's phone no.88726-xxxx but in vain. Thereafter, the complainant along with her relatives started searching for her husband Dinesh Kumar and after sometime, complainant's nandoi Vijay Kumar told her that on 06.06.2024 at around 06:30 PM, he had seen Dinesh Kumar travelling on the motorcycle with Ajay Kumar @ Dani (petitioner) and both of them were going towards the fields through kacha road. On the basis of the said information, the complainant reached the fields of Makhan Singh in the area of Bara Pind where dead body of Dinesh Kumar was found lying and blood was oozing out of Dinesh Kumar's mouth and ears. Lastly, the complainant stated that Ajay Kumar @ Dani (petitioner) has killed her husband Dinesh Kumar and hence, case/FIR was registered against Ajay Kumar @ Dani present petitioner-accused."

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:

"11. ROLE OF PETITIONER: That the petitioner has been specifically named in the FIR by the complainant Neelam Rani wherein she stated that when her husband Dinesh Kumar did not come back home, she started searching for him and after sometime, complainant's nandoi Vijay Kumar told her that on 06.06.2024 at around 06:30 PM, he had seen Dinesh Kumar travelling on the motorcycle with Ajay Kumar @ Dani (petitioner) and both of them were going towards the fields through kacha road. On the basis of the said information, the complainant reached the fields of Makhan Singh in the area of Bara Pind where dead body of Dinesh Kumar was found lying and blood was oozing out of Dinesh Kumar's mouth and

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ears. Lastly, the complainant stated that Ajay Kumar @ Dani (petitioner) has killed her husband Dinesh Kumar.

12. EVIDENCE AGAINST THE PETITIONER: That the petitioner was arrested on 08.06.2024 and during interrogation, petitioner Ajay Kumar @ Dani suffered his first disclosure statement to the effect that on 06.06.2024, there was a pigeon show at his village and several people, including Dinesh Kumar, had come for the said show. The petitioner Ajay Kumar @ Dani further stated that both Dinesh Kumar (deceased) and Ajay Kumar @ Dani had known each other for the last 5-6 years and both of them were habitual of consuming intoxicant substance. For the purpose of consuming intoxicant substance, both Dinesh Kumar and Ajay Kumar @ Dani went to the fields on the motorcycle of Ajay Kumar @ Dani. Lastly, petitioner Ajay Kumar @ Dani stated that Dinesh Kumar (deceased) consumed excessive intoxicant substance as a result of which he fell down on his face and Ajay Kumar @ Dani, out of fear, ran from the spot on his motorcycle. That on 10.06.2024, the petitioner suffered his second disclosure statement to the effect that he had given heroin and a syringe to deceased Dinesh Kumar and Dinesh Kumar after consuming heroin, fell on the ground on his face. Accused Ajay Kumar @ Dani, out of fear, ran from the spot on his motorcycle and hit his motorcycle in a street near his house. Thus, on the basis of disclosure statement suffered by accused Ajay Kumar @ Dani, a syringe and needle was recovered from the fields of Makhan Singh and motorcycle color black make Hero used by accused Ajay Kumar @ Dani was also recovered and taken into police possession."

REASONING:

7. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 12 of the status report, the petitioner has been in custody since 08.06.2024. As per the custody certificate dated 03.02.2025, the petitioner's total custody in this FIR is around eight months. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

8. 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

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official webpage.

9. 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 Ilaqa 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.

10. 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)	

11. This order is subject to the petitioner's complying with the following terms.

12. 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.

13. This bail is conditional, and the foundational condition is that if the petitioner indulges 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.

14. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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

16. 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.

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

(ANOOP CHITKARA)
JUDGE

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Whether speaking/reasoned: Yes
Whether reportable: No.

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