

CRM-M-392-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-392-2025
Reserved on: 03.04.2025
Pronounced on: 22.04.2025

Gagandeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Tushar Sharma, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
175	13.07.2023	Kotwali, Kapurthala, District Kapurthala	160, 302, 303, 323, 324, 325, 326, 186, 353, 148, 149 & 120B IPC and 42 of Prisons 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 22 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	105	18.09.2020	326, 307, 324, 323, 148, 149, 120B IPC	Begowal, Kapurthala
2	175	2021	324, 120B IPC	Division No.4, Jalandhar
3	83	17.07.2020	379B IPC	Begowal, Kapurthala

3. The facts and allegations are being taken from the reply dated 14.02.2025 filed by the State, which reads as follows:

“That it is respectfully submitted that the present case bearing FIR No. 175 dated 13.07.2023 (P-1) under Section 160, 302, 303, 323, 324, 325, 326, 332, 186, 353, 148, 149, 120-B IPC and Section 42 Prison Act, was

CRM-M-392-2025

registered at Police Station Kotwali, District Kapurthala on the complaint of Hemant Sharma, the then Additional Superintendent, Central Jail, Kapurthala against 22 prisoners.

5. That after the registration of the above said FIR, thorough investigation was conducted and from the footage of the CCTV cameras at the spot, it has transpired that on 13.07.2023 at about 7.30 AM, about 30-35 inmates in collusion with each other gathered at Phase-2 gate from their barracks, at Central Jail Kapurthala, out of which 31 prisoners have already been identified, out of whom, some of the inmates had weapons and some were empty handed. That 21 inmates crossed the gate of Phase-2 and proceeded towards security ward-E. On the way on being stopped by the police and security forces, they scuffled with them as well. These prisoners entered the Ward No. 17 of the Security Ward-E and had gravely beaten Simranjit Singh @ Simar son of Resham Singh, and his 3 companions Surinder Singh @ Jimmy son of Mann Singh. Amanpreet Singh Sonu son of Sarabjit Singh and Varinder Pal Singh @ Raja were also beaten. And that Simranjit Singh @ Simar was seriously Injured. The remaining 11 inmates. alongwith about 7-8 unknown inmates stopped the police personnels from closing the gate of Phase-2, so that there is no disturbance to their fellow inmates while returning from security Ward-E after the incident.

The injuries were inflicted upon the deceased and injured prisoners with sharp edge Iron Weapon- Patti type on the head and other parts of Simranjit Singh. Subsequently during the treatment, the abovesaid injured Simranjit succumbed to his injuries at Guru Nanak Medical College Amritsar on 13.07.2023 after which a case was registered and an investigation was carried out.”

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 their family.

5. The State's counsel opposes bail and refers to para 4 of the additional affidavit dated 02.04.2025, which reads as follows:-

“That the deponent would humbly submit that the incident in question took place on dated 13.07.2023, wherein initially 22 prisoners were nominated as accused. However, vide DDRNo. 32 dated 19.07.2023 on the basis of letter no. 2760 dated 18.07.2023 received from Hemant Sharma, the then

CRM-M-392-2025

Additional Superintendent, Central Jail, Kapurthala for nominating 10 more prisoners as accused for their involvement in the said incident. Among them, the present petitioner, Gagandeep Singh son of Balvir Singh, was nominated. The copy of the letter no. 2760 dated 18.07.2023 and DDR No. 32 dated 19.07.2023 are attached as Annexure R-1 and Annexure R-2.”

REASONING:

6. As per para 5 of the additional affidavit dated 02.04.2025, petitioner was to be found amongst the prisoners who went through the gate of phase-2 but no injury was attributed to the petitioner. Petitioner is behind bars in this FIR from last 01 year & 08 months. Moreover, perusal of the FIR reflects that petitioner was not named in the FIR, which shows that he is not main accused and case of the petitioner is on different footing. 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.
7. 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.
8. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.
9. 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.
10. 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.
11. 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) | |
12. This order is subject to the petitioner’s complying with the following terms.

CRM-M-392-2025

13. 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.

14. 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.

15. 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.

16. 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."

17. It is clarified that if the petitioner violates any bail condition, the State and/or the

CRM-M-392-2025

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.

18. **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.**

19. The concerned Judicial Magistrate/ Trial Court is authorized to delete, modify, or relax any of the conditions mentioned above and is competent to do so following the law.

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

21. 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.

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

(ANOOP CHITKARA)
JUDGE

22.04.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.