

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-773-2025
Reserved on: 22.04.2025
Pronounced on: 28.04.2025

Prince Kalyan @ Billu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sumit Dua, Advocate for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
234	12.12.2021	Basti Bawa Khel, District Jalandhar	307, 34 IPC and Section 25 of Arms Act (Section 302 IPC added later on)

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 11 of the bail petition and as per paragraph 18 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	255	05.11.2012	13-A/3/67 of Gambling Act	Division No.7, Jalandhar

3. The facts and allegations are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

“Statement of Vipin S/o Vijay Kumar resident of House No. EN 178, Rasta Mohalla presently residing at Kachha gate Jalandhar aged about 40 years.

Stated that I am resident of the above address and I am living on rent in the house of Billa Valatia. I am living with Jyoti wife of Sheeli resident of Ali Mohalla with me for last about 2-1/2 years and therefore due to grudge about 11:00 PM, Sheeli, Billu and Anshu Kumar to my house at Kachha gate. I was standing is the street. Sheeli with his pistol fired a shot on my right shoulder due to which I fell on the ground. That three of them escaped from the spot. I raised noise. The resident of the Mohalla namely

Gaggu resident of our Mohalla got me admitted of Civil Hospital, Jalandhar where you have recorded my statement. Action as per law taken against the accused. I have got recorded my statement. I have heard the same. It is correct.”

4. The petitioner’s counsel submits that the petitioner would not repeat the offence and shall not indulge in any offence where the minimum sentence prescribed is more than 03 years and if he does so, he shall have no objection, if the State files an application for cancellation of bail. 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:

“Role of Petitioner:-

14. That it is humbly submitted that petitioner was present at the time of commission of crime by co-accused Sushil Kumar @ Shilli and thus it is clear that a shot was fired on the person of the complainant in furtherance of their common intention.

Evidence against the petitioner:

15. That it is respectfully submitted that the petitioner is specifically named by the injured/deceased in his statement that he was present at the time of commission of crime.

16. That it is respectfully submitted that Jyoti has also recorded her statement mentioning that the petitioner was present at the spot at the time of the commission of crime.

17. That it is respectfully submitted that Vinay Kumar brother of deceased Vipin Kumar also got recorded his statement mentioning that his injured brother under treatment at Tagore hospital, Jalandhar had told him that the petitioner Billu was involved in planning and plotting along with co-accused against him.

8. That it is humbly submitted that as per the post mortem report of deceased, the ld. Doctor reported that:

The cause of death in my opinion is multiple organ failure with spine fracture suggestive of septicaemia all of which described in report are antemortem in nature and sufficient to cause death in ordinary course of nature.”

REASONING:

7. The allegations against the petitioner are that he was present along with his co-accused, who fired gun shot on the right shoulder of the deceased. However, as per status report, doctor opined that cause of death is multiple organ failure of the complainant. No injury was attributed to the petitioner. Furthermore, given the undertaking by the counsel for the petitioner that the petitioner would not repeat the offence and shall not indulge in any offence where the minimum sentence prescribed is more than 03 years and if he does so, he shall have no objection, if the State files an application for cancellation of bail, as such, he is entitled to bail.

8. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, he is not the main accused and pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 9 of the bail petition, the petitioner has been in custody since 30.06.2023. As per the same, the petitioner's total custody in this FIR is around 01 year and 10 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.

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.

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.

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 background of allegations against the petitioner, 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 petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from today and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided it is 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.

15. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. 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."

16. **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.**

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

28.04.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.