

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-415-2025  
Reserved on: 03.02.2025  
Pronounced on: 07.02.2025

Ajay ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sourabh Sheoran, Advocate  
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

Mr. Sandeep Kumar Yadav, Advocate  
for the complainant.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                               | Sections                                         |
|---------|------------|----------------------------------------------|--------------------------------------------------|
| 184     | 18.10.2024 | Nangal Chaudhri,<br>District<br>Mahendergarh | 109(1), 190, 191(2) of BNS<br>and 25 of Arms Act |

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.

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

*“4. That the brief facts of the case are that on 18.10.2024, ASI Mukesh was present at P.S. Nangal Chuadhary where MHC, P.S. Nangal Chaudhary informed him that Deepak son of Umed Singh, r/o Mohanpur is admitted at CHC, Nangal Chaudhary after suffering injuries in a quarrel and be reached at CHC, Nangal Chaudhary, After receiving the information, the investigating officer alongwith Ct. Parveen no. 90/NNL reached at CHC, Nangal Chaudhary and obtained the MLR no. MLC/HL/249/NCH/2024 dated 18.10.2024 pertaining to injured Deepak wherein doctor has mentioned four injuries in which injury*

*no.1 was simple and blunt in nature and all other injuries were also blunt in nature and the injured was referred to higher centre for further treatment (Copy of MLR of injured Deepak is annexed herewith as Annexure R-1). It came into the knowledge of the investigating officer that injured Deepak is going to GH, Narnaul from his home for getting his treatment and when the investigating officer alongwith Ct. Parveen were going at the home of injured of Deepak to get his statement recorded, then injured Deepak meet him at Bus Stand, Mohanpur who presented an application to the investigating officer to the effect that on 18.10.2024, he had come to Boys College, Nangal Choudhary to leave his friend Aryan son of Dharmender Singh, resident of Mohanpur on motorcycle bearing registration No. RJ-27BG-9257 (TVS Apache), owned by his friend and his friend Aryan was riding the motorcycle. After leaving his friend Aryan, he was going to his village Mohanpur via New Bus Stand Nangal Choudhary and at about 10:45 AM, when he reached near 148B Flyover, Sanjay son of Sunil @ Maduram, resident of village Kalba was already standing there and on seeing him (complainant), Sanjay son of Sunil had fired gunshot upon him to kill him, which did not hit him and when he stopped the motorcycle, Sanjay came to him and tried to fire second gunshot upon him, but the same could not be fired, then Sanjay inflicted injury on left side of his forehead with butt of country made pistol due to which blood started oozing out. In the meanwhile, Sanjay called his accomplices by giving phone call and they came on separate motorcycles and they were Arvind, Sunil @ Madu, Ajay (present petitioner), Satwant, Rajnesh and Manpreet, who hurried abuses to him. It is further alleged that in the meantime, his younger brother Amit @ Gabru and his friend Sombir son of Krishan, resident of village Mohanpur came there, then with intention to kill his brother Amit @ Gabru, Sanjay fired a gunshot upon his brother which hit left side of the chest of his brother. From the contents of above application as well as MLR of injured Deepak, the offence punishable u/s 109(1), 190, 191(2) of BNS, 2023 and 25-54-59 of Arms Act were made out upon which the investigating officer sent a writing (tehrir) to police station through Ct. Parveen for registration of FIR and on the basis of said tehrir, the present case, vide FIR no. 184 dated 18.10.2024 u/s 109 (1), 190, 191 (2) of BNS, 2023 and 25-54-59 of ARMS Act was registered at P.S. Nangal Chaudhary against the petitioner and others and investigation was launched.”*

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 the status report.
6. Counsel for the petitioner submits that no overt act is attributed to the petitioner and the only allegation against the petitioner is of abusing the complainant.

7. State counsel opposed the bail on the ground that the petitioner has been specifically named in FIR and he has gone to the spot with other accused persons and is member of unlawful assembly.

**REASONING:**

8. 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.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations, role attributed to petitioner and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. 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. 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.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory 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.

12. 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)                                                                                                             |  |

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

14. The petitioner is 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 petitioner shall be in deemed custody for Section 27

of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner 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 petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. 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.

16. 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 of release from prison 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 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.

17. 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.

18. 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 petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

**19. 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 be at liberty to cancel this bail.**

20. 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.

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.

(ANOOP CHITKARA)  
JUDGE

07.02.2025  
Jyoti Sharma

Whether speaking/reasoned: Yes  
Whether reportable: No.