

CRM-M-1580-2025

249 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1580-2025
Decided on: 01.05.2025

Manish ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sukhveer S. Killianwali, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
257	18.03.2021	Kharkhoda, District Sonipat	302, 148, 452, 149, 120B IPC and 25/27/54/59 of Arms Act

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 CrPC, seeking regular bail.
2. Per paragraph 7 of the bail petition as well as para 16 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	256	18.03.2021	450/506/120B/506 IPC and 25/27/54/59 of Arms Act	Kharkhoda
2	191	18.03.2021	307 & 120 B IPC and 25/27/54/59 of Arms Act	Sonipat City

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

“2. That briefly stating the facts involved in the instant case are that on 18.03.2021, acting upon an information that Krishan son of Rattan Singh, resident of village Barona, District Sonipat has been shot dead in village Barona, District Sonipat, police officials rushed to the spot, where wife of deceased Krishan namely Smt. Anita presented a complaint, stating therein that she has two sons namely Dinesh and Ajay @ Bittu, who is confined in jail in murder case. She further stated that today ie. on

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18.03.2021, at about 1.00 p.m, she and her husband Krishan were present at their house, when they heard voice from the gate of their house "Tau-Tau", on which her husband opened the gate and found 8-10 persons outside the gate of their house and they abruptly entered their house and fired upon her husband. The complainant further stated that when her husband ran towards the room from the gate, all the 8-10 persons chased him and fired shots at her husband and the bullets hit the shoulders, stomach, chest etc. of her husband. The complainant raised suspicion that due to previous enmity with one Muniya, who is their co-villager, said Muniya alongwith his companions, his brother Barjesh, friends Ram Karan Baiyanpur, Naresh, Jasbir, Ramesh Nayabans, Rajesh Sarkari, Neetu Khanda, Pona Madina, Ashish, Vicky Chitana, Smt. Parvinder Kaur wife of late Shri Satyawar, Sonu Malik Gandhra, Shashi Parkash Advocate Sonipat, Mahesh posted in Haryana Police, Smt. Aarti wife of Sonu Malik, mother of Muniya and Anand Gandhra in collusion with each other have got murdered her by firing multiple gun shots by 8-10 persons. She further stated that about three months ago, Sonu Malik and Mahesh, employed in Haryana Police had extended threat to her for dire consequences for her family. With these allegations, the complainant sought for legal action against the culprits. On the basis of above complaint, instant FIR was registered and investigation was set into motion."

4. Petitioner seeks bail on parity with co-accused Parvinder Malik, who was granted bail by this Court vide order dated 12.05.2022 passed in CRM-M-2305-2022. 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. Counsel on instructions further submits that he would not repeat the offence and would not involve himself in the offence where the sentence is more than 07 years and if he does so, he has no objection if State files application for cancellation of present bail and also the bail granted in FIR No.191.

5. The State's counsel opposes bail and refers para 15 of the reply, which reads as under:-

"That as far as the role of petitioner in the above mentioned crime is concerned, in this regard, it is submitted that present case is an organized crime and in execution of the conspiracy hatched by co-accused Ram Karan with petitioner/accused Manish and other co-accused to commit the above mentioned crime, 18.03.2021, petitioner Manish along with co-

accused had gathered at the plot of co-accused Ram Karan and thereafter, they all had gone to the house of deceased Krishan. After reaching the house of deceased Krishan, co-accused had shot dead deceased Krishan and at that time, the petitioner Manish was also present at the spot in the Scorpio vehicle provided by co-accused Ram Karan. It was petitioner/accused Manish, who entered the house of deceased and removed the DVR of the CCTV camera installed in the house, which was later on handed over by petitioner/accused Manish to co-accused Ram Karan. All these facts have also been admitted by petitioner in his disclosure statement, pursuant to which, he got demarcated the place of occurrence. In this manner, petitioner had actively participated in the above mentioned crime. The case is pending for prosecution evidence and if enlarged on bail, petitioner can tamper with the prosecution evidence by influencing prosecution witnesses and can also hamper the trial by absconding from the process of law. Merely on the basis of longevity of incarceration, petitioner is not entitled to seek the concession of bail as a matter of right. Thus, keeping in view the seriousness of offence, role of petitioner in committing the crime, punishment provided and antecedents of petitioner, he is not entitled to the relief of bail as claimed for.”

REASONING:

6. To analyse the evidence against the petitioner, it would be appropriate to refer to following portion of the reply, which reads as follows:-

“That on 10.04.2021, accused Naresh @ Nesha son of Ramphal, resident of village Baiyanpur, Sonipat was arrested in the present case, who on interrogation suffered disclosure statement and admitted his guilt and also disclosed that he alongwith his brother Ram Karan, Jasbir, Constable Mahesh, companions of his brother Ram Karan namely Monu, resident of Lalheri, Manish resident of Kharkhoda, Sunil Kalanaur, Mohit resident of Kalanaur, Pawan @ Pona resident of Khubru, Priyavart @ Foji resident of Garhi Sisana and the names of other persons can be disclosed by Ram Karan only, had hatched the conspiracy to commit murder of Ajay @ Bittu in police custody with the help of Constable Mahesh and that of father of Ajay @ Bittu namely Krishan. He further disclosed that in execution of the said conspiracy, on 18.03.2021, his brother Ram Karan handed over weapon to Constable Mahesh for the murder of Ajay @ Bittu and thereafter, Ajay @ Bittu was fired upon by Constable Mahesh when he was produced in Sonipat Courts from Rohtak Jail and thereafter, as per the conspiracy of his brother Ram Karan, other co-accused sent by his brother Ram Karan had murdered father of Ajay @ Bittu namely Krishan by

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entering into his house by firing gunshots. On 30.03.2021, case property which was taken into possession at the initial investigation, was sent to FSL Madhuban.

7. That on 15.04.2021, petitioner/accused Manish son of Naresh and Sunil @ Bhundu were arrested in the present case and on interrogation, they suffered disclosure statements and admitted their guilt. Petitioner/accused Manish disclosed that firstly he along with co-accused Kam Karan, Naresh, jasbir, Anand Malik, Smt. Parminder Kaur, Gurmail @ Pintu, Constable Mahesh, Monu Lalheri, Sunil, Priyavart, Amit @ Mita and Pawan @ Pona and others had hatched the conspiracy to Ajay @ Bittu and his father Krishan, as they were nursing grudge against them. In execution of the said conspiracy, on 18.03.2021, he along with co-accused had gone to the house of deceased Krishan in Scorpio vehicle of co-accused Ram Karan, where other co-accused had fired upon deceased Krishan. He also disclosed that at the time of occurrence, he had also entered the house of deceased Krishan and he had removed/took away the DVR of CCTV camers installed in the house of deceased and later on, handed over the same to accused Ram Karan. In pursuance of his disclosure statement, petitioner/accused Manish got demarcated the place of occurrence. On 19.05.2021, scaled site plan of the place of occurrence was got prepared. Statements of witnesses were recorded and other relevant evidence was also collected and after completion of investigation, report under Section 173 Cr.P.C. was submitted in the Court against accused Smt. Parvinder Malik, Anand, Naresh @ Nesha, Manish (petitioner) and Sunil @ Bhundu on 17.06.2021.”

7. The evidence collected against the petitioner has come in the shape of disclosure statement of co-accused and regarding removal of CCTV camera it was not recovered from the petitioner. Although the petitioner has criminal history but considering the validity of evidence collected against the petitioner, petitioner's case is distinct from other accused and as such he is entitled to bail. **It is clarified that bail granted to the present petitioner shall not be a precedent for other co-accused for the reason that petitioner's case is distinct and he was arraigned on the basis of disclosure statement of co-accused, in which it was mentioned that petitioner that stolen CCTV camera but the same was not recovered from him.**

8. Per paragraph 17 of the bail petition, the petitioner has been in custody since 08.04.2021 and his custody in this FIR is approximately 03 years & 09 months.

9. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the

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prima facie 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, subject to the compliance of terms and conditions mentioned in this order.

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. 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.

12. 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.

13. 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)	

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

15. 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.

16. 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 (CrI.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

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17. 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.

18. 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."

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

20. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any offence where the sentence is more than seven years, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

21. **The petitioner shall attend each and every date before the trial Court.**

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

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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.

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

(ANOOP CHITKARA)
JUDGE

01.05.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.