

CRM-M-872-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-872-2025
Reserved on: 15.02.2025
Pronounced on: 17.02.2025

Sandeep Kumar alias Sandeep Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Navneet Singh, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
504	30.06.2024	Shahbad, District Kuruksehtra	148, 149, 307, 341, 120-B IPC and 25 of Arms Act (Sections 54 & 59 of Arms Act added later on)

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 17 of the bail petition, the accused declares that he has no criminal antecedents, however as per para 16 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	147	07.03.2023	148, 149, 323, 307, 324, 326, 506 & 201 IPC	District Police Kurukshetra

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

“2.Case bearing FIR no.504 dated 30.06.2024 under Sections 148, 149, 307, 341 and 120-B IPC and 25 of Arms Act (later on added sections 54 and 59 of Arms Act) registered at Police Station Shahabad, District Kurukshetra on complaint of Harshdeep Singh S/o Sukhdev Singh R/o

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village Madanpur, police station Shahabad, District Kurukshetra against the present petitioner in which he has alleged that:-

"I have a shop in village with name the Singh food corner. On 30th of June, 2024 at 10:30 I went to donate blood in Shahbad at that time near RamPrasad school, resident of I met Rishabh Kataria Lucky colony Garv resident of Jagada colony and one other unknown boy on who blocked my way there. and had we a light scuffle there.

Rishabh and me Gary had shown different country made pistols and as the people were on the spot all these three boys from the spot and me too came home without donating the blood. Today itself 2:30P.M. when I was present on my shop. At that time one Alto car went from Madanpur side towards Mohanpur side in which Rishabh Kataria was there along with four other boys who gave a look at me and went away. Thereafter, after 10-12 minutes same Alto car stopped in front of my shop in which the same five boys were sitting. Rishabh Kataria was having a country made pistol in his hand. Garv was having pistol in his hand. Sandeep resident of bibipur was having pistol in his hand and gandasi in his other hand.

And other two boys were having gandasis in their hands. All of them raise the lalkara while lighting out of the car that today Harshdeep will not be spared alive and after seeing this Rishabh Kataria fired from his country made pistol which he was carrying in his hand with intention to kill me, that went away from just near my ear and other four boys started attacking me with their Gandasis but I somehow try to escape. On hearing the noise of a gunshot people gathered on the spot and all the above named boys tried to escape by sitting in their car out of which Rishab and Garv were over powered by the public and were beaten by public and the Sandeep along with other two boys with their weapons from the spot towards Shahbad Police came to the spot and Rishabh Kataria and Garv were handed over to police. On these allegations the above noted Fir was registered against the present petitioner and his co-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 their family. Counsel for the petitioner refers to para 7 of the petition, which reads as follows:-

"7. That the police has wrongly produced the petitioner under Section 307 of the IPC BNS even without getting any Medical Evidence from the concerned doctor and in the present case, the complainant has not suffered any injury."

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5. The State’s counsel opposes bail and refers to the reply.
6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“That during the course of investigation the present petitioner namely Sandeep Singh was arrested on 05.07.2024 and he has admitted his involvement in the present FIR along with his co-accused. The copy disclosure statement is attached as Annexure R-1 for the kind perusal of this Hon'ble Court.

7. That as per the disclosure statement of the present petitioner, a gandasa was recovered from his possession and the same was taken into police possession and handed over to the MHC, of the police station Shahabad. Statement of recovery witnesses were recorded.”

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.
8. Per paragraph 9 of the bail petition, the petitioner has been in custody since 05.07.2024. Per the custody certificate dated 31.01.2025 the petitioner’s total custody in this FIR is 06 months & 26 days.
9. 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 further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.
10. 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.
11. 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.
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)	
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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 (CrI.) 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.”

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17. 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.

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 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.

20. 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.

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

17.02.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.