

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-1114-2025
Reserved on: 13.02.2025
Pronounced on: 19.02.2025

Mandeep Sharma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Himanshu Bansal, Advocate and
Mr. Abhinav Kaushal, Advocate
for the petitioner.

Mr. Jasjit Singh, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0098	05.07.2022	Sangat, District Bathinda	307, 506, 148, 149 IPC and 25, 27, 54, 59 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 the bail application, the petitioner is silent about criminal antecedents.
3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

“4. That as per the brief version of FIR: - Summary of the case of the prosecution is that present case has been registered on the statement of Lakhwinder Singh @ Lakhi to the effect that on 05.07.2022, there was a hearing of his case registered under NDPS Act at Faridkot. He was coming from Faridkot by Santro Car belonging to Mahant Karamjeet of his village. He was sitting on the rear seat and the car was being driven by Ravi Mahant. When they reached near Sangat crossing, a Swift car being driven by Bhinder Singh overtook their car and Gobind Singh, Kali (Manpreet Singh) Teeta Singh and two unknown persons were also sitting in the said car. They stopped their car and broke the rear window of their car by hitting a rod. He lodged a complaint with the police in this regard. He reached his house. At about 8.30 pm, all the aforesaid persons, out of whom Gobind Singh was armed with 12 bore gun, Teeta Singh was armed

with pistol and (10 unknown person) armed with rods, sticks and deadly weapons came on the road in front of their house and started raising 'Lalkaras'. When he came at the gate of his house, Gobind Singh shot a fire from his gun towards him, but he saved himself. Then Gobind Singh fired shots in the air."

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. Counsel for the petitioner submits that the petitioner is not named in the present FIR and has been falsely implicated in the present case by investigating authority in connivance with complainant and co-accused Gobind Singh. The petitioner was arrayed as an accused in the present case on the basis of disclosure statement of co-accused namely Gobind Singh vide DDR NO. 39 dated 30.08.2022. Counsel for the petitioner further submits that the co-accused Gobind Singh has falsely implicated the petitioner Mandeep Sharma in the present case as the co-accused Gobind Singh has previous enmity with the brother of the petitioner namely Manoj Kumar alias Mauji and there are multiple cross-cases pending between the co-accused Gobind Singh and brother of the petitioner Manoj Kumar alias Mauji. The prosecution story is false and frivolous as evident from the fact that the as per the version of the FIR the barrel of the alleged 12 bore gun was cut and shortened, however the gun belonging to the petitioner is mechanically fit with no tampering. He further submits that no overt act has been attributed to the petitioner and the allegations levelled against the petitioner are simple in nature.

6. The State's counsel opposes bail and refers to the short reply.

7. It would be appropriate to refer to the following portions of the short reply, which read as follows:

"Role of the petitioner

7. That the role of the petitioner came into the fore on the statement of the co-accused Gobind Singh. Co-accused Gobind Singh was arrested on 26.08.2022 and during the interrogation of the co-accused Gobind Singh, he confessed that the weapon used in the commission of the crime was of the present petitioner Mandeep Sharma and the co-accused Gobind Singh also stated that Mandeep Sharma present petitioner was member of the unlawful assembly at time of the commission of the crime. On the statement of co-accused Gobind Singh the petitioner was implicated accused vide DDR No. 39 Dated 30.08.2022."

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 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.

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 Ilaka 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 complainant, 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 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."

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

19.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.