

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2084-2025 (O&M)
Reserved on: 04.03.2025
Date of Pronouncement: 17.03.2025

Harmesh Kumar
.....Petitioner(s)
Versus
State of Punjab
.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aditya Dassaur, Advocate for the petitioner(s)
Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
26	27.05.2024	Mukandpur, District SBS Nagar	379-B/341 IPC

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 13 of the bail petition, the accused declares that he is involved in another case i.e. FIR No.50 dated 27.5.2024 under Section 379B/34 IPC P.S. Sadar Phagwara, District Kapurthala. However, as per paragraph 6 of the reply/custody certificate, the petitioner-accused is involved in two more cases, which are detailed below:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	46	3.4.24	379B, 411 IPC	Satnampura, District Kapurthala
2.	63	19.5.24	379B, 411 IPC	Satnampura, District Kapurthala

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:
- “3. That it is respectfully submitted that the brief facts of the present case are that on 27.05.2024, the complainant-Harmesh Kumar, son of Sarwan Dass, resident of village Mandi, PS Phillaur, District Jalandhar recorded on 27.05.2024, to the effect that his statement before the investigating officer, wherein he got recorded that he (complainant) is a daily wage labour. On 25.05.2024, complainant was going from Banga to his village Mandi on his scooter Make Honda Activa, bearing No. PB-08-EJ-3445. At about 09:00 PM. when complainant reached near village Mukandpur and was going on slow speed on account of potholes on the road, two motor cyclists, coming from opposite side, came near the complainant and asked the way for Banga. One of the motor-cyclists also caught hold the wrist of the complainant, while the other person kept his motor cycle on start. The pillion rider, after pushing the complainant from the scooter, drove away

on the scooter of complainant towards Banga side. The second motor-cyclist also fled towards Banga side. Both the motor-cyclists had snatched the scooter of complainant and complainant could identify the snatchers, if brought before him.”

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 reply.

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

“7. That it is further submitted that though, the petitioner was not named in the FIR, the recovery of the snatched Scooter, make Aactiva, of the complainant was effected from the petitioner, along with his co-accused Ranjit Singh, both of whom were arrested in FIR No. 50 dated 27.05.2024 of PS Sadar Phagwara. The petitioner, thereafter, has been identified by the complainant as one of the snatchers. It is further submitted that the petitioner is a habitual offender and the complainant- Harmesh Kumar is yet to be examined in this case. It is one of the *sine qua non*s of fair trial that complainant deposes in a free atmosphere without being under any threat or coercion. A grave apprehension exists that, in the event of petitioner being released on bail, he may try to overawe the complainant or tamper with the evidence.”

REASONING:

7. There is sufficient *prima facie* evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

8. Per paragraph 7 of the bail petition, the petitioner has been in custody since 2.7.2024. Per the custody certificate dated 3.3.2025, the petitioner's total custody in this FIR is 8 months and 1 day.

9. Given the penal provisions invoked viz-a-viz pre-trial custody, 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 further pre-trial incarceration at this stage.

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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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)	

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. 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.

15. **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.**

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

17. 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.

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

17.03.2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO