

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M-3373-2025
Date of Decision: 12.03.2025

Harpreet Singh Bhullar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Sudan, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. Aditya Verma. Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
443	02.11.2024	Ambala Cantt. District Ambala	125(a), 281 of BNS, 2023 (Section 125 (b) of BNS added later on and thereafter the same deleted and Section 110 BNS was added)

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. As per paragraph 11 of the bail application and the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	01	01.01.2022	188, 72 C.B. Ex. Act	Ambala Cantt.

3. The facts and allegations are being taken from the translation of FIR which is reproduced in paragraph 2 of the bail petition, which reads as follows:

"Sir, the contents of complaint is as under: Statement of Akash son of Shri Shivdas resident of H.No. 154, B.C. Bazaar Ambala Cantt, District Ambala or aged 35 years, mobile number 97299xxxxx stated that I am resident of above said address and doing a private job in a mobile shop at Nicholson Road Ambala Cantt. On the occasion of Diwali, I had taken a license from the administration and had organized a sale of firecrackers on Gandhi Ground Ambala Cantt on 31-10-2024. My friend Adarsh Rathi son of Pradeep Rathi resident BC Bazaar Balmiki Colony

Ambala Cantt was sitting with me. We sold firecrackers by organizing a sale at night. We closed our shops on 01.11.2024 at around 1.00 pm. There an unknown boy was driving his Brezza red colour car whose number was HR-85-9050 and he was drunk. We make him understand that he should not fire crackers here, our shop will catch fire. We explained to him a lot but he did not listen to us. The shopkeepers there also make him understand but he did not listen to anyone. He sat in his car and I and my friend Adarsh Rathi were standing on one side, then he came driving the car at a very high speed and hit my friend Adarsh Rathi with the car. My friend fell down. Then he suddenly brought the car and drove it over the head of my friend Adarsh Rathi. People gathered there and the unknown boy ran away from the spot alongwith his red color Brezza car number HR-85-9050. I took my friend Adarsh Rathi to Civil Hospital Ambala Cantt in my private car. Where the doctor gave first aid to my friend and referred him to PGI Chandigarh for treatment. My friend Adarsh Rathi is admitted in PGI Chandigarh for treatment. The unknown driver of red color Brezza car number HR-85-9050 has injured my friend Adarsh Rathi by making accident and by driving his car at high speed, carelessly and negligently. I can identify the unknown driver if he comes in front of me. Legal action be taken against the unknown driver of Brezza car number HR-85-9050 and justice should be provided. I have recorded my statement to you, heard it and the same is correct.”

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 his family.

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

“19. That as far as role of the accused-petitioner is concerned, the accused-petitioner has been found to have committed the offence under Sections 281, 125(a), 110 BNS, 2023 which are serious and grave in nature. Since the accused-petitioner as per allegations levelled in the FIR, drove his vehicle in a rash and negligent manner and with an intention to kill the injured/victim Adarsh Rathi hit the injured as a result of which the injured has received serious head injuries. Moreover, one another FIR has been registered against the present petitioner. Thus, the custodial interrogation of the petitioner is very much necessary to ascertain the true facts. Henceforth, it has been found that the accused-petitioner is a habitual offender; therefore, it is submitted that the present

petition of the accused-petitioner may kindly be dismissed and the accused-petitioner be issued direction to join the investigation of the present matter as the investigation of the present matter is still in process and the present accused-petitioner has not been examined or joined in the investigation till date, so in order to elicit the truth regarding the allegations leveled by the complainant against the accused-petitioner, the custodial interrogation is very much needed in the present case

20. That further it is submitted that the accused-petitioner has committed a grave offence, since the accused-petitioner drove his vehicle in a rash and negligent manner and as a result of which the injured has received serious head injuries (as reflected through the medical record of the injured/victim), which effect the society and general public at large and therefore, to elicit the truth in the present case, his custodial interrogation is very much necessary in the present case. Thus, it is submitted that thorough investigation is required to be carried out and custodial interrogation also seems imperative as it is necessary to know if the accused-petitioner has done such a heinous act out of rage of anger or due to enmity with the Complainant or injured Adarsh Rathi. Further, if no incriminating evidence comes on record or case file then in that event, the accused-petitioner would be released on police bail. But in the event, if the IO/SHO of PS Ambala Cantt is not satisfied with the interrogation with the accused-petitioner and found the involvement of the accused-petitioner in the commission of offences, then in that event, the accused-petitioner would be arrested as per the relevant provisions of law. Further, it is submitted that the orders of this Hon'ble Court would be complied with in letter and spirit."

6. Counsel for the complainant also opposes bail and submits that it is not a case of attempt to commit culpable homicide but in fact it is a case of attempt to murder punishable under Section 109 BNS. Counsel for the complainant also submits that crackers were burst by the petitioner.

7. However, counsel for the petitioner submits the offence is only under Section 110 BNS IPC and this Court should not go into the parameters of Section 109 BNS.

8. Counsel for the petitioner voluntarily submits that in case bursting of crackers by the petitioner, he undertakes not to burst crackers for next five years.

REASONING:

9. Given the nature of offence and role attributed, no case to deny bail is made out.

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.

10. 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.

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 complainant/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.

16. Given the background of allegations against the petitioner, it becomes paramount to protect the complainant/victim, 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 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 may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

20. Any observation made hereinabove is neither an expression of opinion on the

case's merits nor shall the trial Court advert to these comments.

21. 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.

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

(ANOOP CHITKARA)
JUDGE

12.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.