

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

CRM-M-3921-2025
Reserved on: 05.03.2025
Pronounced on: 27.03.2025

Sakir ...Petitioner

Versus

State of Haryana ...Respondent

CRM-M-5375-2025

Ajruddin ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mazlish Khan, Advocate
for the petitioner(s).

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
494	15.11.2022	Punhana, District Nuh (Haryana)	148, 149, 323, 506 IPC (Section 307 IPC added later on)

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. Per paragraph 09 of the bail application (CRM-M-3921-2025) and per paragraph 17 of the status report filed by the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated/year	Offenses	Police Station
1	159	2021	148/ 149/ 323/ 506/ 427 IPC	Punhana
2	68	15.03.2023	323/ 353/ 186/ 341/ 342/ 506/ 307/ 379-B IPC and Sections 25/54/59 of Arms Act and 3(2) PD PP Act	Punhana

3. Per paragraph 10 of the bail application (CRM-M-5375-2025) and per paragraph 16 of the status report filed by the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated/year	Offenses	Police Station
1	473	2022	147/149/323/506/427 IPC & 3/33/89 of SC Act	Punhana
2	68	15.03.2023	323/353/186/341/342/506/307/379-B IPC and Sections 25/54/59 of Arms Act and 3(2) PD PP Act	Punhana
3.	16	16.02.2023	379/411 IPC	Surajkund, Faridabad

4. The facts and allegations are being taken from the status report filed by the State in CRM-M-5375-2025, which reads as follows:

“3. That the detailed facts emanating from the present case are that on 15.11.2022, ASI Ram Kumar along with Ct Sanjay Kumar No. 307/ Nuh was present at Neemkheda for crime detection and crime control, upon which the complainant Sahid son of Ibrahim resident of Gokulpur came and moved a complaint and produced MLR No. LOKESH/PNA/1003/2022 DT. 2/11/2022 of injured Shahid son of Khursheed resident of Gokulper. The Medical Officer has mentioned six injuries KUO BLUNT, ENT OPINION, ORTHO OPINION and MLR NO. LOKESH PNH/1004/2022 of injured Haris son of Arjan resident of Gokulpur and Medical Officer has mentioned one injury KUO, BLUNT ADV-SURGERY OPINION and MLR No. JAG/512/2022 DT 2/11/2022 of injured Sajid son of Khalil resident of Gokulpur and Medical Officer has mentioned four injuries KUO, BLUNT ADV-X-RAY of SURGERY OPINION. The copies of MLRs of injured are annexed as Annexure R-1 to R-3. It is further submitted that the gist of complaint runs as under: To, Police Post Officer, Chandadaka, Subject: application regarding taking legal action against 1. Mubin son of Zafaru, 2. Shakeel Son of Hakmudin, 3. Amjad son of Hajar Khan, 4. Irshad son of Jain Khan 5. Mursalem son of Zafaru 6. Jakar son of Anwar. 7. Hassan Mohammad son of Haroon, 8. Ata Mohd. 9. Rasid son of Gulab, 10. Rozin son of Waheed, 11. Tahir son of Qadar, 12. Khalid son of Dinu, 13. Zubair son of Dinu, 14. Naseem son of Khursheed, 15. Saikul son of Jabar khan, 16. Asif son of Abdul Sattar, 17. Israel son of Jom Khan, 18. Ansar son of Hakmuddin, 19. Intiyaz son of Safi Mohammad, 20. Azaruddin Safi Mohammad, 21. Sakir son of Kale Khan, 22. Amin son of Noor Mohammad, 23. Rafiq son of Roshan, 24. Shakhavat son of Hameed, 25. Lakkhu son of Yakub 26. Rahmoodin son of Bashir. 27. Irfan son of Gulab, 28. Shaheed son of Nablu, 29. Subdi son of Dulli, 30. Bashir son of Bhurla, 31. Asghar son of Abdul Razzaq. Munfed son of Ahmed 33 Fakruddin son of Bashir, 34. Alijan Son of Islam, 35. Hassan Mohd. son of Ibrahim, 36. Arif son of Himmat, all residents of village Gokalpur, Police Station, Punhana, District Nuh. Sir, it is requested that I am Shaheed son of Ibrahim and permanent resident of village Gokalpur, Police Station, Punhana, District Nuh and I am a handicapped person with one hand and a peace-loving person and I do farming work. Sir, the situation is such that on 02.11.2022 at around 8-8:15, due to the Panchayat election, I went to the village school with my family members to cast my vote and I stood in a line to cast my vote, then a person with a disability in both legs came there, who had come with the help of a person from the village to cast his vote. The aforesaid disabled person also stood with me to cast his vote. When he started walking ahead in the line to cast his vote, Azharuddin son of Safi Mohammad, who was standing there in the line, stopped the

handicapped person from casting his vote and started abusing him. I had also stood with him. The aforesaid accused Azharuddin started speaking rudely to me also and said to me that the vote of a disabled persons, who are not able to stand hell pushed me out of the line. My nephew Sajid, son of Khalil had brought my elderly father Ibrahim to cast his vote. He had brought my father to cast his vote, and when my nephew Sajid protested against the act of the said accused, Azharuddin started abusing both of us by using vulgar and dirty language against our mother and sister. In the meantime, Mubeen son of Fajra, Mursaleem son of Fajru, Irshad son of Jain khan Intiyaz son of Roshan, Amjad son of Hajar Khan, Hasan son of Haroon, Zubair son of Atru, Sakeel son of Hakmuddin, Ata Mohd son of Kurshid, Naseem son of Khurshid, Jain khan son of Jore khan And Shahid son of Nablu, etc. were also standing at the spot Thereafter,. Mubin son of Fajar made an announcement and said, come out of your houses with sticks and rods. We will kill you and teach you a lesson for Soting against us. After that, the accused ran away to Ata Mohammad's house, who was already sitting in the house in a fit of anger. The house of Ata Mohammad was close to the school, due to which the above mentioned accused 5 came to the school within 5 minutes with sticks and rods from Ata Mohammad's house. As soon as they arrived, they launched a lethal attack on me and my nephew Sajid. They caught hold of me and beat me badly with kicks and punches, due to which I received several injuries on my body. Accused Mubeen son of Fajaru hit me with the rod in his hand, Shakeel son of Hakmuddin hit me on the head, Amjad son of Hajar Khan hit me on the head with a stick, Irshad son of Jain hit me on the head with another stick and punched him on his face and nose with the sticks, due to which Sajid received four injuries on his head and on his nose and mouth. When Shahid son of Khursheed and Haris son of Azharuddin tried to save us from the accused, then accused Bashir son Bhurla hit Shahid on the head with a rod and Asgar son of Abdul Razak hit him on the head with a lathi. Munfaid son of Ahmed hit Sajid on the head with another lathi. Mursaleem hit him with a lathi near the nose and other accused punched him on the face and nose, due to which he received six injuries on his head, mouth and nose and was badly injured. Junaid son of Farooq hit Haris on the head with a rod and Subdi son of Dulli hit Haris on the head with a lathi and other accused kicked and punched him and rendered him unconscious. The above accused started pelting stones. At the time of the fight, Ishak son Abdul Gafoor, Jafu son of Hanif, Latif son of Ibrahim, Israil son of Nijru were also present on the spot. They picked up my nephew Sajid son of Khalil from school and went to Ata Mohammad's house and threw him. They have beaten Sajid badly and in unconscious stage, they took Sajid to a medical store and threw him there. After that we picked up Sajid from there and took him to MandikhedaHospital, where the doctors gave him first aid and referred him for further treatment in higher centre. Due to serious condition of Sajid, we took him to Alwar and got admitted in Sania Hospital, where he was taken for surgery and his head was operated and with great difficulty Sajid's life was saved. I and my family members were busy till today in getting treatment of Sajid. So, now I have come to make complaint for legal action against the aforesaid accused. Those accused are still openly threatening that, if we will make any complaint against them, then we will not be spared. If the will get a chance, then will kill us. Therefore, it is requested that a case be registered against the said accused and strict legal action be taken and life and property be protected. Your most kindness. SD Saheed Applicant Date 15-11-2022 Saheed son of Ibrahim resident of village Gokalpur Police Station Punhana,

District Nuh. On the aforesaid complaint crime u/s 148,149,323,506 IPC was found committed at the spot, upon which a case FIR No. 494 dated 15.11.2022 under sections 148,149,323,506 IPC was registered at Police Station Punhana and the investigation of the present case was conducted by the ASI Ramkumar.”

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

6. The State's counsel opposes bail and refers to the status report.

7. The Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible.

8. FIR relates to the year 2022 and till date no proceedings have been done by the Investigator qua the arrest of petitioners, as such, they are entitled to bail on this ground alone. 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.

10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make 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 petitioners are not required in any other case, the petitioners shall be released on 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 Ilaqa 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 petitioners 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 petitioners are 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 petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners 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 petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners 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.

15. Given the background of allegations against the petitioners, it becomes paramount to protect the victim, 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 petitioners 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 petitioners 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.

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.”

17. 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 petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

18. It is clarified that if the petitioners violate 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 petitioners move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

19. **This bail is conditional, and the foundational condition is that if the petitioners indulge 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.**

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

(ANOOP CHITKARA)
JUDGE

27.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.