

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4711-2025
Reserved on: 08.04.2025
Pronounced on: 21.04.2025

Ajay Kumar @ Bhola

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Naveen K.Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
277	17.06.2024	City Fatehabad, Distt. Fatehabad	148, 149, 323, 395, 427, 452, 506 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents.

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

“2. That brief facts of the present case are that on 17.06.2024, ASI Rohtash Kumar alongwith SPO Surender was present in front gate of Mini Secretariat Fatehabad, then at that time complainant Subhash Chand son of Kirodimal met him and presented an application to the effect that "he and Satish Kumar son of Lakhmi Chand are residents of Gali No.3, Matu Ram Colony, Fatehabad. On 16.06.2024, he (complainant) and Satish Kumar had gone to work and his wife and daughter-in-law and children were at home and in his absence, at about 6:00 P.M., one Mohit and his friend Manjit and 35-40 other youths, who were carrying sticks, swords, gandasi, rampe etc., forcefully entered his house and hit the door of the house with bricks and broke the household items kept in the house with sticks and threw the children here and there mercilessly and beat them and also threatened to kill them. The abovesaid assailants also took away an amount of Rs.10,500/- from the cupboard kept in his room and also

caused heavy damage to his brother's mother-cycle make Hero CD Deluxe bearing registration No.HR22S-9636 standing in the street outside his house by hitting with the sticks. They also entered in the house of his neighbour Satish Kumar son of Lakhmi Chand and broke the belongings and also caused damage to the belongings. After that, they completely destroyed two other motor-cycles standing outside the houses in the street and escaped by pelting stones in the street. The above said accused persons came to their house without any reason and broke the household goods. Now they (complainant) are facing a serious threat to their life and property from all the above youths. If they suffer any loss of life or property, the above said accused persons will be responsible. Complainant prayed for taking legal action against the accused persons". On the basis of the complaint of complainant, present case FIR No. 277 dated 17.06.2023 was registered under sections 148, 149, 323, 395, 427, 452, 506 of IPC registered at Police Station City Fatehabad against accused persons namely 1. Mohit and 2. Manjeet and investigation was carried out."

4. The petitioner's counsel submits that the petitioner has been falsely implicated in the present case. Neither the petitioner's named in the FIR nor any role attributed to him. His name has been surfaced in the second disclosure statement of co-accused Sahil @ Ganja. He further submits that one of his co-accused Sant Kumar @ Mohit has been granted the benefit of regular bail by this Court, vide order dated 21.01.2025 passed in CRM-M-55400-2024.

5. Counsel for the petitioner further submits that he has no objection if any stringent condition is imposed while granting bail including surrender of fire arms within 15 days and restrict entry of petitioner in the property/work place of the victim and he shall not pressurize, induce, threaten the family members of the victim. He further contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

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

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

"20. xxx xxx

A. THE ROLE OF THE PETITIONER:

i) That present petitioner-accused Ajay Kumar alias Bhola alongwith other accused persons of the unlawful assembly (approximately 35-40 in number) criminally trespassed into the house of the complainant and damaged his household articles by pelted bricks on the gate of the house

and also picked up the children and threw them here and there without any mercy and gave beatings.

ii) The petitioner/accused and the other co-accused persons have committed the vandalization and destruction with the motive of taking revenge from the people of other community because some people of the other community killed one Balraj @ Goli who belonged to the community of accused persons.

iii) The present petitioner-accused Ajay Kumar alias Bhola was a part of crowd which utterly disregarded the law and committed the present offence.

B. THE EVIDENCE AGAINST THE PETITIONER: -

i) That the present petitioner-accused Ajay Kumar alias Bhola was specifically named by co-accused Sahil @ Ganja in his 2nd disclosure statement (Annexure R-1), wherein he disclosed that 'on 16.06.2024, Ajay alias Bhola (present petitioner-accused) son of Bansi Lal alias Nikku resident of Ashok Nagar Fatehabad was also involved with us in looting and breaking into the house of Subhash Chand (complainant).

ii) That during investigation, complainant duly identified the petitioner-accused Ajay Kumar alias Bhola and identification parade of petitioner-accused Ajay Kumar @ Bhola was separately prepared."

REASONING:

8. The name of the petitioner has been surfaced in the second disclosure statement of co-accused Sahil @ Ganja and one of his co-accused Sant Kumar @ Mohit has been granted the benefit of regular bail by this Court, vide order dated 21.01.2025 passed in CRM-M-55400-2024 and given the undertaking by the counsel for the petitioner that he has no objection if any stringent condition is imposed upon the petitioner while granting bail including surrender of fire arms within 15 days and restrict entry of petitioner in the property/work place of the victim and he shall not pressurize, induce, threaten the family members of the victim, as such, the petitioner is entitled to bail.

9. 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. As per paragraph 9 of the bail petition, the petitioner has been in custody since 23.07.2024. As per the custody certificate dated 07.04.2025, the petitioner's total custody in this FIR is 08 months and 15 days. 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.

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. This order is subject to the petitioner's complying with the following terms.

14. 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.

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

16. 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.

17. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. 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 *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (CrI) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

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

21.04.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.