

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7125-2025
Reserved on: 15.02.2025
Pronounced on: 28.02.2025

Gurjeet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Piyush Sharma, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

Mr. J.S.Grewal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0005	08.02.2024	Ghall Khurd, District Ferozepur	307, 341, 427, 506, 148, 149 IPC and 25, 27 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 paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

“3. That in compliance to the Order dated 06.02.2025, it is most respectfully submitted that FIR No.0005 dated 08.02.2024 for offences under Sections 307,341,427,506,148,149 IPC and 25,27 Arms Act, Police Station Ghall Khurd, District Ferozepur was registered on the statement of complainant namely Arshdeep Singh son of Rashpal Singh, r/o Ward no.3, Mudki, District Ferozepur against accused persons namely 1) Karan Kumar Sharma son of Pream Kumar Sharma, r/o Jhatra Road, Zira, District Ferozepur, 2) Gurjeet Singh alias Mundri (present petitioner, 3) Roshandeep Singh son of Shinder Singh, r/o Hakumat Singh Wala, PS Ghall Khurd, District Ferozepur and two unknown persons at the initial stage.

4. That as per the statement of complainant, he stated that he studied upto +2 Class and now he has been working with his brother Ranjodh Singh @ Jodha regarding denting and painting of cars in Mudki. That Kulbir Singh son of Piara Singh, resident of Mudki, is a friend of his brother Ranjodh Singh. Yesterday on 07.02.2024, it was Kulbir Singh's birthday, due to which, he organized a party at Chhotu Da Dhaba, Talwandi Road, Near Toll Plaza and he invited the complainant and his brother and other persons to attend his birthday party. Therefore, the complainant including other friends gathered in Mudki around 08.00 in the night. The complainant and others including Sukhraj Singh alias Gaggi son of Gurmail Singh, Harpreet Singh son of Nirmal Singh, Gurjant Singh son of Balwinder Singh, Gurjeet Singh alias Mandar, Rahul, Lovepreet Singh son of Satpal, all residents of Mudki and Avinash alias Heera son of Satpal, resident of Ittan Wali and Sukha son of Gurdev Singh, resident of Village Lalle, went on three cars, one was of Kulbir Singh make Ford icon bearing No. CH-01-AF-6429 and one of brother of complainant Ranjodh Singh's make Verna bearing No. PB-09-AE-8680, coloured Silver and other car belonging to other friend Navninder Singh alias Navi son of Harjinder Singh, resident of Pakhi Kalan, make Etios Toyota Colour White and they all arrived at Chhotu Da Dhaba around 08.30 PM for party. That the birthday party of Kulbir Singh was going on and at about 10.15 PM, Karan Kumar Sharma son of Prem Kumar, resident of Jhatra Road, Zira and Gurjit Singh Mundri (present petitioner) accompanied by cut hair unknown youngster, came to Chhotu Da Dhaba and started altercation with complainant party. Then the complainant asked his brother Ranjodh Singh for the reason, who told him that there having monetary dispute with them. Therefore, they indulged in altercation with them. After some time, Rahul and Lovepreet Singh sons of Satpal, residents of Mudki went back to their house and the complainant and others after finishing the party, about 10.30 also left from the spot. Heera and Sukha sat in the car of Kulbeer Singh and Sukhraj Singh Gaggi and Harpreet Singh sat in the car make Verna of Ranjodh Singh, brother of complainant and the complainant, Gurjant Singh and Gurjeet Singh Mandher sit in the car of Navninder and went towards the Mudki site. Then Karan Kumar and Gurjeet Singh alias Mundri (present petitioner) etc. hit their car make Innova Colour Silver Grey with the car make Ford Icon of Kulbeer Singh. Then Kulbeer Singh tried to save himself and the driver of the Innova car again hit the car of Kulbeer Singh. Then Kuldeep Singh sped away his car to save himself. Thereafter, the complainant party took all the three cars at the Motor, situated near the house of Harpreet Singh. The car of Kulbir Singh was badly damaged. Avinash alias Heera had suffered injury on his foot, due to which, he was suffering from severe pain. Due to damaged condition of Kulbeer Singh's car, the same was parked at the Motor. Thereafter Heera was sitting in the car of brother of complainant and Sukhraj, Harpreet Singh, Kulbir Singh and Sukha sat on the back seat of the car

and thereafter they proceeded towards Mudki side to provide medical aid to Heera. The complainant, Gurjant Singh, Gurjeet Singh alias Mander were sitting in the second car of Navninder Singh, which was being driven by Navninder Singh. When the complainant party reached at Mahla Road, near the gate of Village Fidde, then from the opposite side, two cars, out of which, Karan Kumar Sharma was sitting in Innova Car and was accompanied with two unidentified persons, who were having pistols were standing there. They stopped the car of Ranjodh Singh, brother of complainant and started firing towards the Verna Car and the car went out of control due to bullet hit to Ranjodh Singh and entered the fields. Thereafter, Sukhraj Singh etc. who were sitting on the back seat of the car, ran towards the fields in order to save themselves. The other car Swift colour white in which Roshandeep Singh son of Shinder Singh, resident of Hakumat Singh Wala, accompanied by Gurjeet Singh alias Mundri (present petitioner), who were having pistols. They all started firing towards the car of Navninder Singh and one bullet hit to Gurjant Singh son of Balwinder Singh, resident of Mudki on his stomach. Then the complainant and others sped away their car in order to save them. All the accused escaped from the spot with their respective weapons on Innova and Swift car while giving threats to eliminate the complainant party. After sometime, the son of Harpreet Singh's uncle (Chacha) namely Lovepreet Singh arrived at the spot. The brother of complainant namely Ranjodh Singh received two fire-arm injuries i.e. one on his head and the other on his stomach and Gurjant Singh also suffered fire- arm injury on his stomach. The injured were got admitted in Guru Gobind Singh Medical College, Faridkot after arranging the vehicle. Due to the serious condition, Ranjodh Singh referred to PGI, Chandigarh. The motive behind the occurrence as per complainant is that his brother Ranjodh Singh alias Jodha and the other party Karan, Rosha and Mundri are of same friend circle and were having monetary dispute.”

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. He further submits that matter stands compromised between the parties.
5. Counsel for the complainant submits that they have no objection if bail is granted to the petitioner.
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 PETITIONER

13. That as far as the role of the petitioner is concerned, he is one of the member of unlawful assembly

and was also armed with pistol at the time of occurrence as per the statement of complainant and he along with other co-accused fired gun-shots towards the car of Navninder Singh and one bullet hit to Gurjant Singh son of Balwinder Singh, resident of Mudki on his stomach.”

REASONING:

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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.
10. Given the nature of allegations coupled with the fact that parties have compromised the matter, this Court would not deny bail, however, it is clarified that this bail order shall neither be considered as a reason to quash the FIR nor shall come as hinderance in the way of the prosecution or the Court in case, there is violation of Section 216/217 of BNS, 2023 (181/182 IPC earlier).
11. 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. This order shall come into force from the time it is uploaded on this Court's official webpage.
12. 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.
13. 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)	

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

15. 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.

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 (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

17. 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.

18. 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.”

19. 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.

20. 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.

21. 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.

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

23. 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.

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

(ANOOP CHITKARA)
JUDGE

28.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.