

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

CRM-M-9207-2025
Reserved on: 18.03.2025
Pronounced on: 26.03.2025

Rahul @ Kau ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Bairagi, Advocate and
Mr. Abhimanyu Balyan, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
277	17.06.2024	City Fatehabad	148/149/323/395/427/452/506 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 8 of the bail petition, the accused declares that he has no criminal antecedents, however, per paragraph 19 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	276	16.06.2024	147/149/323/395/427/436/452 IPC	City Fatehabad

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 17.6.2024, 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 16.6.2024, 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 above said 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 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 seeks bail on the grounds of parity with co-accused Sant Kumar @ Mohit who has already been granted bail by this Court.

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

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

"A. THE ROLE OF THE PETITIONER: -

i) That present petitioner-accused Rahul alias Kau 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 other 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 was a part of crowd which utterly disregarded the law and committed the present offence."

7. Petitioner is entitled to bail on the ground of parity with co-accused Sant Kumar @ Mohit who was granted bail by this Court vide order dated 21.01.2025 passed in CRM-M No.55400 of 2024 as well as on the ground of prolonged custody.

8. 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.
9. Per paragraph 5 of the bail petition, the petitioner has been in custody since 22.07.2024. Per the custody certificate dated 18.03.2025, the petitioner's total custody in this FIR is 07 months and 27 days.
10. 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.
11. 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 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.
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 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.
16. 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.

17. ***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.***

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

26.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.