

				District Moga
8.	146	25.09.2014	307/392/326/325/148/149/120-B IPC and Section 25 of Arms Act	KotIsse Khan, District Moga
9.	40	15.04.2017	451/323/148/149 IPC	KotIsse Khan, District Moga
10.	91	04.10.2017	341/506 IPC and Sections 25/27 of Arms Act	Fatehgarh Panjtoor.
11.	167	14.11.2017	379-B/506/148/149 I{C	KotIsse Khan, District Moga
12.	168	24.11.2017	61 of Excise Act and 420 IPC and 25 of Arms Act	KotIsse Khan, District Moga
13.	148	31.10.2018	61 Excise Act	KotIsse Khan, District Moga
14.	102	25.07.2019	307 IPC and Sections 25/27 of Arms Act	KotIsse Khan, District Moga
15.	83	02.05.2015	21/22/25/29 of NDPS Act, 1985 and Sections 420/467/468/471 and 120-B of IPC	City Jagraon, Ludhiana
16	219	20.09.2015	21 of NDPS Act, 1985	Division No.5, Civil Lines, Ludhiana

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

"xxx xxx xxx xxx

2. That pursuant to the said order it is submitted that the present FIR No. 162 dated 13.12.2019 U/s 307,224,332,353,186,130, 148,149,120-B IPC and u/s 25 of the Arms Act was registered on the basis of statement of A.S.I. Baldev Singh No.734/Bathinda son of Gurmukh Singh resident of Bahadurgarh Jandian, now resident of Abad GaliNo.A/1, Multania Road, Guru Nanak Nagar, Bathinda against Bhagwan Singh son of Jasvir Singh resident of Ladal, P.S. Lehra, District Sangrur, with the allegations that he is serving in Punjab Police and is presently posted in Police Lines, Bathinda on general duty. On 13.12.2019 he along with C-II Jaspal Singh 2212/Bathinda, Constable Charanjit Singh 1283/Bathinda, at about 9.00 AM by taking accused Bhagwan Singh @ Gaggi son of Jasvir Singh r/o Ladal, who is lodged in Central Jail, Bathinda in case FIR No.105 dated 24.07.2016 u/s 341/323/120-B/109/34 IPC, P.S. Lehra, and after putting hand cuffs came in his private car No.PB-11-CB-5805 make RITZ for producing him before the Court of Ld. JMIC, Moonak, and after producing the accused in the Court, when the Police party proceeded for Bathinda to lodge the accused in District jail, Bathinda, when the Police party came out from the Court Complex, Moonak, 4/5 unknown persons came in Brezza vehicle No. PB-05AG-6605 and got the accused Bhagwan Singh @

Gaggi released along with hand cuffs from the Police custody by firing upon the Police party and ran away by taking the accused along in their Brezza vehicle."

4. Counsel for the petitioner submits petitioner has been falsely implication in the present FIR. Petitioner has been arrayed as an accused on the basis of disclosure statement of the co-accused Lakhwinder Singh and Sandeep Singh who allegedly fired gunshots upon the police party to rescue co-accused Bhagwan Singh @ Gaggi. No injury has been attributed to the petitioner. He has also approached the trial Court for bail but the same was dismissed on 22.08.2023. On instructions, he further submits that in case, this Court grants bail to the petitioner, he undertakes to live like a decent human being and a civilized member of the society. He further undertakes that if he is again indulged in any offence where the sentence prescribed is more than 07 years, he would have no objection if not only this bail is cancelled but also, the bail granted in all others FIRs, which are mentioned below are also cancelled:

(i) FIR No.08 dated 26.01.2011, under Sections 307/341/323/148/149 IPC, Police Station KotIsse Khan, District Moga.

(ii) FIR No.79 dated 10.05.2012 under Sections 307/354/408/182/120-B IPC and Sections 25/27 of Arms Act, Police Station Kot Isse Khan, District Jalandhar.

(iii) FIR No.75 dated 27.05.2014, under Sections 15/18/21 of NDPS Act, Police Station KotIsse Khan, District Moga.

(iv) FIR No.146 dated 25.09.2014, under Sections 307/392/326/325/148/149/120-B IPC, Police Station Kot Isse Khan, District Moga.

(v) FIR No.102 dated 25.07.2019, under Sections 307/201 IPC and 25/27 of Arms Act, Police Station Kot Isse Khan, District Moga.

5. 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 reply.

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

"xxx xxx xxx xxx

H. ROLE OF THE PETITIONER:

The present FIR was registered against accused Bhagwan Singh, who was got released from the police custody by his other 10 co-accused. During investigation 10 accused as per detailed given above were nominated as accused in this case. During interrogation accused Simran @ Simma and Inderjit Singh @ Inder who were arrested on 06.01.2020, on interrogation disclosed that one revolver 32 bore and 12 live cartridge of same bore were supplied to them for the commission of the present offence by Chamkaur Singh @ Ricky Bhau (present petitioner). On the basis of these facts, he was nominated as an accused in this case on 08.01.2020. He was arrested on 20.04.2023. During interrogation accused/petitioner admitted this very fact that he had supplied one revolver 32 bore and 12 live cartridges to Simran @ Simma and

Inderjit Singh @ Inder by bringing from U.P. So, the petitioner has played a specific role in the commission of present crime."

REASONING:

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 custody certificate dated 05.05.2025, the petitioner has been in custody from the last 02 years and 13 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. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.
12. 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.
13. 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.
14. 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) | |
15. This order is subject to the petitioner's complying with the following terms.
16. 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.
17. 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.

18. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, detection squad and their family members, as well as 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 firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond 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 from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in 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.

19. 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."

20. 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.

21. **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.**

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

19.05. 2025
renubala

Whether speaking/reasoned:	Yes
Whether reportable:	No.