

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

CRM-M-13441-2025  
Reserved on: 03.04.2025  
Pronounced on: 22.04.2025

Abhishek Gir and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.S.Mehendiratta, Advocate and  
Mr. Rahul Dhanda, Advocate  
for the petitioners.

Mr. Adesh Pal Singh, AAG, Punjab.

\* \* \* \*

ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station            | Sections                                                                                 |
|---------|------------|---------------------------|------------------------------------------------------------------------------------------|
| 129     | 06.09.2024 | Pasyana, District Patiala | 109/191/190 of BNS and 25 of Arms Act (Section 191(3) of BNS added during investigation) |

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. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents, however, per paragraph 15 of the status report, the accused/petitioner No.1 – Abhishek Gir has the following criminal antecedents:

| Sr. No. | FIR No. | Date       | Offenses             | Police Station |
|---------|---------|------------|----------------------|----------------|
| 1       | 195     | 18.08.2021 | 363/366-A/120-B. IPC | Sadar Patiala  |

3. Per paragraph 12 of the bail application and per paragraph 15 of the status report, the accused/petitioner No.2 – Varinder Singh @ Bawa, the accused has the following criminal antecedents:

| Sr. No. | FIR No. | Dated      | Offenses                                                | Police Station                |
|---------|---------|------------|---------------------------------------------------------|-------------------------------|
| 1       | 38      | 06.04.2022 | 302/148/149, IPC and Sections 25/27/54/59 of Arms Act   | Urban Estate, Patiala         |
| 2       | 201     | 28.08.2024 | 331(6)/351(1)/351(3)/324 (4) / 324(5)/191(3)/190 of BNS | Bhawanigarh, District Sangrur |

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

“3. That the present case/FIR No. 129/2024 (supra) was registered pursuant to the statement of Lovepreet Singh (complainant/respondent no. 2), wherein he stated that on 26.08.2024, he alongwith his friends Chamkaur Singh and Jagjit Singh had gone to eat Burgers near Bus Stand of Village Karhali Sahib, in the meantime, Abhishek alias Babbu (petitioner no. 1), Varinder Singh alias Bawa (petitioner no. 2) and Gurinder Singh came therein on car make Optra and started hurling abuses and threatening them that they came in their village to watch the cricket tournament and respondent no. 2 and his friends were staring at them. Apprehending a quarrel, the respondent no. 2 alongwith his friends came back to their respective houses. Thereafter, on 27.08.2024 at around 12:00 PM, Varinder Singh alias Bawa (petitioner no. 2) called the respondent no. 2 on his phone and asked him to come under the bypass bridge near village Kherajatta at 3 PM to discuss the matter peacefully. Accordingly, respondent no. 2 alongwith his friends Chamkaur Singh and Jagjit Singh reached at the said spot and saw that Varinder Singh alias Bawa (petitioner no. 2) was armed with dagger, Abhishek alias Babbu (petitioner no. 1) armed with sword, Gurinder Singh armed with iron rod and Lovepreet Singh alias Billa and 7/8 unknown persons were already standing therein. Upon seeing the respondent no. 2 and his friends, Varinder Singh alias Babbu (petitioner no. 2) raised lalkara that let us teach them a lesson for staring at them on the day of cricket tournament and in the meantime, Lovepreet Singh alias Billa took out a revolver from his dub and fired 4/5 shots towards them with the intention to kill. The respondent no. 2 and his friends raised hue and cries, and left the spot on their motorcycle to save their lives. Hence, upon the statement of Complainant/Respondent no. 2, the present case/FIR was registered against (1) Abhishek alias Babbu (petitioner no. 1); (2) Varinder Singh alias Bawa (petitioner no. 2); (3) Gurinder Singh; (4) Lovepreet Singh alias Billa and 7/8 unknown persons for the offences under Section 109, 191, 190 BNS and Section 25 Arms Act.”

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. Counsel for the petitioners submit that the matter stands compromised between the parties and refer to compromise deed.

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:

“12. **The evidence against the petitioner(s):-** The petitioners were specifically named by the respondent no. 2 in his statement dated 06.09.2024.

13. **The role of the petitioner(s):** - That on 27.08.2024, the petitioner no. 2 called the respondent no. 2 on his phone and asked him to come at a certain place to discuss the matter but when the respondent no. 2 alongwith his friends reached at the said place, the petitioner no. 1 armed with sword, petitioner no. 2 with dagger, co-accused Gurinder Singh with iron rod and Lovepreet Singh alias Billa with countrymade

*weapon 315 Bore were present. Thereafter, petitioner no. 2 raised lalkara and subsequently, co-accused Lovepreet Singh alias Billa fired 4/5 shots from countrymade 315 bore revolver towards the respondent no. 2 and his friends. However, the respondent no. 2 and his friends saved themselves and fled away from the spot.”*

8. More than seven months have already elapsed and the Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible.

9. The matter stands compromised between the parties and there is no rebuttal to the contention of counsel for the peittioner. 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.

10. 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.

11. 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.

12. 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.

13. 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)                                                                                                             |  |

14. 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.

15. 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.

16. 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 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.

17. 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."

18. 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.

19. 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.

20. **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.**

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

22. 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.

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

22.04.2025  
Jyoti Sharma

(ANOOP CHITKARA)  
JUDGE

Whether speaking/reasoned: Yes  
Whether reportable: No.