

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14022-2025
Reserved on: 01.09.2025
Pronounced on: 09.09.2025

Arvind @ Fauji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anuj Tanwar, Advocate for
Mr. Abhimanyu Singh, Advocate,
for the petitioner.

Mr. Atul Gaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
213	05.07.2024	Pataudi, Gurugram, District Gurugram	111, 351(2), 125 BNS and 25 (1-B) (a) 29 (B) of Arms Act (Sections 111, 125 BNS added and 287 of BNS deleted and 29(b) of the Arms act added later on)

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. As per para 8 of the bail petition, the petitioner has no criminal antecedents. However, as per para 12 of the status report/custody, petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Dated/Year	Offenses	Police Station
1.	137	03.04.2019	61 of Excise Act	Pataudi, Gurugram
2.	225	16.06.2021	323, 341, 452, 506 IPC	Pataudi, Gurugram
3.	456	2015	353, 186, 393, 34, 332 IPC	Pataudi, Gurugram
4.	116	11.10.2016	324, 506, 34 IPC	Rohrai, Rewari
5.	351	2019	148, 149, 302, 323, 422, 324, 341 IPC	Pataudi, Gurugram
6.	51	19.02.2024	148, 149, 323, 379-B, 50, 201, 204, 367 IPC	Dharuhera, Rewari
7.	331	01.09.2018	323, 307, 506, 34 IPC, 25, 54, 59 of Arms Act	Pataudi, Gurugram
8.	84	2016	323, 506, 34 IPC	Pataudi, Gurugram
9.	229	18.04.2023	506 IPC, 25(1B)(A), 29, 29(B) of Arms Act	Pataudi, Gurugram
10.	68	21.02.2024	506, 34 IPC	Model Town, Rewari

11.	350	2022	406, 34 IPC	Model Town, Rewari
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3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That the brief facts of the case are that on 04.07.2024, information was received that firing has occurred in Village Khod. On this information, HC Vijay Kumar, ASI Raj Kumar and other officials reached the place of occurrence. The complainant Hemant submitted a complaint alleging therein that on 04.07.2024 at around 4:00 PM, he and his friend Hitesh were standing near the water tank, at that time, his neighbour Bhupender @ Pawan @ Murli and three other persons (who were going on a bike towards Village Lokra) stopped their bike. All of them alighted from the bike. Bhupender @ Murli and one boy came towards him (complainant) and fired gunshot in the air. Thereafter, Bhupender @ Murli and the said persons went from there on the bike while waving the pistol in the air and while threatening the complainant to kill. He could not see the number and colour of the bike. Prayer was made for taking legal action. Thereupon, the above mentioned FIR No.213 dated 05.07.2024 u/s 287, 351(2) BNS and 25(1-B)(a) Arms Act (Later on deleted section 287 BNS and added Section 111, 125 BNS and 29(b) Arms Act) was registered at P.S. Pataudi, Gurugram.”

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 his family.

5. The petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

6. The State's counsel opposes bail and refers to following portions of the status report, which reads as follows:

“9. That the role of the petitioner Arvind @ Fauji in the present case is that he had obtained one countrymade pistol, one desi katta and eight live cartridges from accused Vikas and the petitioner had handed over the same to accused Bhupender and Lalit. The petitioner has been named by accused Bhupender in his disclosure statement and the same is attached herewith as Annexure R-3.

10. That at present, the evidence against the petitioner in the present case is that he has been named by accused Bhupender in his disclosure statement wherein he clearly stated that he had obtained one countrymade pistol and five live cartridges from the petitioner Arvind @ Fauji and that he had also got one desi katta and three live cartridges to accused Lalit from the petitioner Arvind @ Fauji. The said arms and ammunition were used by accused Bhupender and Lalit in the present crime. The disclosure statement of accused Bhupender is already attached herewith as Annexure R-3. Furthermore, the above mentioned countrymade pistol and three live cartridges have been recovered from accused Bhupender and the above

mentioned desi katta and three live cartridges have been recovered from accused Lalit. The petitioner has also admitted his guilt of providing the illegal weapons and ammunition, in his disclosure statement which is already attached herewith as Annexure R-1.”

REASONING:

7. 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.
8. As per paragraph 7 of the bail petition, the petitioner has been in custody since July 2024. As per the custody certificate dated 29.08.2025, the petitioner’s total custody in this FIR is 01 year, 01 month and 02 days.
9. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, role attributed 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 the 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 or duty Magistrate, with or without sureties, with a maximum bond amount not to exceed INR 10,000.
12. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 10,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the “Chief Judicial Magistrate” of the concerned Sessions Division; or a fixed deposit made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.
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. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, 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.

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. 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.

19. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

20. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State shall file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may 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. In Amit Rana v. State of Haryana, CRM-18469-2025 [Decided on 05.08.2025], in CRA-D-123-2020], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that “To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished.”

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

(ANOOP CHITKARA)
JUDGE

09.09.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.