

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16898-2025
Reserved on: 09.09.2025
Pronounced on: 16.09.2025

Kesar Singh @ Keshar Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Satnam Singh Gill, Advocate for the petitioner.

Mr. Jasdev Singh Thind, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
178	29.09.2023	Mataur, Distt. SAS Nagar	307, 506, 148, 149 IPC and 25 of Arms Act

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 17 of the bail petition, the petitioner has no criminal antecedents.

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

“3. That the brief facts, of the present case as per investigation are that on 28.09.2023 at about 10.00 p.m. there was a quarrel between the petitioner and the victim Jathedar Baba Maan Singh S/o Harcharan Singh R/o V.P.O. Burjhpoth P.S. Macchiwara, Tehsil Samrala, Distt. Ludhiana, presently staying at Kaumi Insaaf Morcha, YPS Chowk, Phase-7 Mohali. Though the matter was pacified that night, however, on the next day the petitioner along with his 4-5 companions reached again on the place of incident, renewed the quarrel with the complainant and subsequently, petitioner with intent to kill, fired a gun shot from his pistol aiming towards the complainant. However, victim narrowly escaped unhurt, and with the help of public persons the petitioner was apprehended and handed over in the custody of police officials, whereas his companions fled from the spot.”

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 portion of the status report, which reads as follows:

"4. F. The evidence against the petitioner

That sufficient material has come on record against the petitioner inter alia:

I. Statements of the complainant/Victim and eye-witness recorded under Section 161 CrPC, consistently attributing firing to the petitioner;

II. Recovery of the Country Made (Desi pistol) with the three-live cartridges and one fired cartridges case from the petitioner; and

III. Seizure/recovery proceedings and the other contemporaneous records prepared during investigation corroborate the occurrence.

G. The role in the present case -

That the role of petitioner is specific and active. After the quarrel on 28.09.2023, he returned the next day with 4-5 companions, renewed the quarrel, and fired from a Country Made (Desi pistol) at the victim with intent to kill. Though the victim escaped without injury, the petitioner's act of discharging a firearm with such intent squarely attracts section 307 IPC read with other applicable provisions. The petitioner was apprehended at the spot with public assistance, while his co-accused fled."

REASONING:

7. Allegations of firing against the petitioner, however, no one injured, no recovery is remaining, as such, after a period of pre-trial incarceration of two years, no case for further pre-trial incarceration is made out.

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. As per paragraph 10 of the bail petition, the petitioner has been in custody since 29.09.2023. As per the same, the petitioner's total custody in this FIR is around 02 years.

10. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this

¹Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? —Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? —Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.² Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.³ Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.⁴ When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.⁵

11. Given the above, 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.

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.

13. 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.

14. 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.

²Supreme Court of India in *State of Kerala v. Raneef*, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

³Supreme Court of India in *SiddharamSatlingappaMhetre v. State of Maharashtra*, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

⁴Supreme Court of India in *Babu Singh &ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

⁵Supreme Court of India in *Sanjay Chandra v. CBI*, [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

15. 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)	

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

17. 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.

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

19. 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.

20. 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."

21. 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.

22. 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.

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

24. 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."

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

16.09.2025
Jyoti-II

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	No.