

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20691-2024
Reserved on: 10.03.2025
Pronounced on: 25.03.2025

Gurvinder Singh @ Kali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Agnihotri, Advocate,
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
95	11.10.2023	Hathur, Distt. Ludhiana	115, 120-B, 148, 149 IPC and Section 25 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking regular bail.

2. In paragraph 17 of the bail petition and as per paragraph 15 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	102	27.08.2016	302, 307, 324, 148, 149 IPC and Sections 25/27 of Arms Act	Hathur
2.	84	18.08.2019	61 of Excise Act	Hathur
3.	14	10.12.2019	25 of Arms Act	Ajitwal
4.	66	29.03.2017	399, 402 IPC and 25 of Arms Act	City Jagraon
5.	111	04.12.2022	323, 324, 34 IPC	Hathur
6.	120	27.11.2023	25 (6) (7) (8) of Arms Act	Hathur

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 complainant Harjit Singh son of Sukhpal Singh resident of village Chakar PS Hathur gave statement to the police that on 27-08-2016 there occurred one dispute in the Gurudwara Sahib of his village in which Balvir Singh and Hira Singh sons of Mukand Singh had died. Due to this occurrence one FIR No. 102 dated 27-08-2016 u/s 302/307/324/148/149 IPC & under Arms Act was

registered in PS Hathur against Sukhpal Singh (complainant), his brother Charanjit Singh, his father Sukhpal Singh and other 11 persons. In this dispute Guramrit Singh @ Gora son of Joginder Singh of his party was also injured. Due to this reason cross case u/s 307/324/148/149 IPC was registered against Hira Singh, Balvir Singh, Gurvinder Singh @ Kali (petitioner) Gurbinder Singh @ Sonu, Bir Singh @ Gopy and Harpreet Singh which is pending for trial in the Ld. Trial Court. In this case, they and Gurvinder Singh Kali of the other party were released bail. Due to death of their father Balvir Singh and uncle Hira Singh. Petitioners Gurvinder Singh Kali, Sukhpal Singh @ Ghogri and Gurbinder Singh @ Sonu were seeking retribution against them.

3. That Gurbinder Singh @ Sonu is residing in Australia and he in connivance with his brothers petitioner Gurvinder Singh @ Kali and accused Sukhpal Singh @ Ghogri wanted to cause damage to the complainant party physically and to their property. Petitioner Gurvinder Singh @ Kali and Sukhpal Singh @ Ghogri along with unidentified persons were roaming in the village in Scorpio Car No. PB-19-U-5252 having black glasses for the last few days. The known persons of the complainant told him that Gurvinder Singh @Kali is saying in the village that every effort will be made to kill Harjit Singh. Jatinder Singh @ Jindu son of Avtar Singh r/o Chakar is also seen riding a motor cycle No. PB-10-CR-1852 in front of the house of the complainant. Thus the complainant become alert.

4. That the complainant further stated that on 09-10-2023 he was sitting on the cemented chair which was lying in front of his house. His father was also sitting on his front chair. At about 5:15 P.M. Jatinder Singh @ Jindu on motor cycle no. PB-10-CR-1852 passed before him looking at him towards the road leading to village Minia and then he went inside the village. At about 5:30 PM two unidentified persons who were wearing black caps were seen coming from Gurudwara Sahib towards the house of the complainant. The complainant stood up, and those unidentified persons were coming towards him while putting their hands on their pistols. Then the complainant entered his house. Those persons moved across his house and stood in front of the gate of the house of Boota Singh. Jatinder Singh @ Jindu also reached there. In the meantime one Scorpio Car also came there. His nephew Gurmohanjot Singh came in his car. Then the above mentioned persons ran away in their vehicles from the spot.

5. That the complainant further stated that he made enquiries that some persons had left those unidentified persons in the parking of Gurudwara

Sahib and thereafter took those unidentified persons again in the Scorpio car. Jatinder Singh has given information about the availability of the complainant in front of his house to those unidentified persons on the phone. He has confidence that petitioner Gurvinder Singh @ Kali, Sukhpal Singh Ghogri in connivance with Gurbinder Singh have planned to kill the complainant with promise to Jatinder Singh for sending him to Australia for his help in this occurrence. These persons wanted to take revenge for the murder of their father and uncle. On this statement FIR No.95 dated 11-10-2023 u/s 115/120-B/148/149 IPC & u/s 25 Arms Act has been registered in PS Hathur against petitioner Gurvinder Singh @ Kali, Gurbinder Singh @ Sonu, Sukhpal Singh @ Ghogri, Jatinder Singh @ Jindu and unknown persons.”

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 State's counsel opposes bail and refers to the reply.

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

“12. That during interrogation petitioner Gurvinder Singh @ Kali has stated before the I.O. that Raminderjit Singh @ Ravi has enmity with complainant Harjit Singh as Harjit Singh had broken his legs earlier. So the petitioner along with Raminderjit Singh @ Ravi has hatched a conspiracy to kill Harjit Singh. Raminderjit Singh @ Ravi has provided 3 shooters for this purpose from UP. He has brought them to his house from Ludhiana. Said Ravinderjit Singh @ Ravi also gave an amount of Rs.40,000/- on 30-09-2023, Rs.50,000/-on 5-10-2023 and Rs.33,000/ on 8-10-2023 to the petitioner for this purpose. He has left the unidentified shooters near Arti Chowk Ludhiana. They handed over one country made pistol 12 bore and one country made pistol 30 bore along with 2 live cartridges to the petitioner. These pistols and cartridges have been recovered from the petitioner by the police of CIA Staff Jagraon. So Raminderjit Singh @ Ravi has financially helped the petitioner. Statement u/s 27 Evidence Act of the petitioner was recorded. On this statement Raminderjit Singh @ Ravi has been nominated as accused in this case.

13. That during interrogation petitioner Gurvinder Singh @ Kali also disclosed that he has one mobile phone make Redme in which SIM +14505xxxx is operating. He used to talk on this number with

Raminderjit Singh @ Ravi and hatched a conspiracy to kill Harjit Singh. He has concealed this mobile phone in his house and can get the same recovered. Statement u/s 27 Evidence Act of the petitioner was recorded. Thereafter the I.O. got recovered the above said mobile phone from his house on the basis of disclosure statement.”

REASONING:

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime and allegations are serious. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 15 of the bail petition, the petitioner has been in custody since 01.12.2023. As per the same, the petitioner’s total custody in this FIR is around 01 year and 03 months. 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.
8. 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.
9. 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.
10. 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) | |
11. This order is subject to the petitioner’s complying with the following terms.
12. 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.
13. Given the background of allegations against the petitioner, it becomes paramount

to protect the victim/complainant, 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 petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner 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.

14. Given the nature of the allegations and the other circumstances peculiar to this case, the Appellant-Accused 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.

15. 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."

16. 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 petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

17. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at 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

25.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.