

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22499-2024
Reserved on : 06.03.2025
Pronounced on: 20.03.2025

Gurdev Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Atinderpal Singh, Advocate,
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

Ms. Meena, Advocate for
Mr. Amit Arora, Advocate, for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
93	27.07.2023	Khilchian, Amritsar Rural, Punjab	307, 336, 506, 120-B IPC and 25 of Arms Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.
2. Vide order dated 08.05.2024, the petitioner was granted interim bail, which continues to date.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“4. That the brief and relevant facts of the case are that the aforesaid FIR No.93 dated 27.07.2023 was registered based on the statement of Sarabjit Singh son of Jaswant Singh, who had alleged therein that on 27.07.2023 at about 08:15 PM, he along with his brother Amarjit Singh were sitting in the courtyard of their house and in the meantime, the petitioner, Jagdev Singh (complainants' brothers-in-law) and Gurjashanpreet Singh alias Chini along with 3/4 unidentified persons forcibly trespassed into his house and started beating him. He further alleged that when he objected, the petitioner fired a shot from his pistol at his brother but his brother escaped unhurt and the co-accused Jagdev Singh alias Jagga and Gurjashan Singh alias Chini took them at gun point by saying that if he made noise, they will kill him and thereafter, all the aforesaid accused fled away from the spot with their

respective weapons after firing shots in the air. It was alleged that the reason for the incident was that his brothers-in-law wanted to involve him in their bad deeds. The detailed facts mentioned by the complainant Sarabjit Singh in the aforesaid statement have been reproduced in the true translation of the aforesaid FIR attached with the petition as Annexure P-1, which may kindly be read as a part of present paragraph as same are not repeated here for the sake of brevity.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. The State's counsel opposes bail and refers to the status report.

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

“10. That the petitioner is not entitled to concession of a pre-arrest bail in view of the seriousness of the allegations and gravity of the offence committed by him along with the other co-accused. The custodial interrogation of the petitioner is required for the fair investigation of the case and for the recovery of pistol to take the investigation to its logical conclusion to prove the prosecution case during the trial.”

7. The complainant's counsel also opposes bail.

REASONING:

8. Although, there is an allegation of firing but no one was injured. Further, the challan has already been presented before the trial Court and during the pendency of the petition, there is no allegation against the petitioner regarding violation of any of the bail conditions. Thus, in these circumstances, this Court does not deem it appropriate to take a contrary view to what was taken by a co-ordinate Bench of this Court in the year 2024.

9. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although 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 the same for the bail stage.

10. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator.

Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

CONDITIONS:

11. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner 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 petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. Given the background of allegations against the petitioner, it becomes paramount to protect the complainant, witnesses, and 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 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, 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.

13. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the victim's property, workplace, and residence 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 Bhat v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

14. 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.”

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

16. **Petition allowed** in terms mentioned above. Interim order dated 08.05.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.