



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-20706-2025
Date of Decision: 22.04.2025

Nijamuddin ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nafees Ahmad Khan, Advocate
for the petitioner. (through video conferencing).

Ms. Trishanjali Sharma, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	06.01.2025	Punhana, District Nuh	191(3), 190, 121 (1), 132, 221, 109(1) BNS and 13(1) 13(2) of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. As per paragraph 10 of the bail petition and as per instructions supplied by State counsel, the accused has the following criminal antecedents:

Sr. No.	FIR	Dated	Offences	Police Station
1.	255	30.07.2023	13(2) HGS & GS Act, 1-59-60 Animal Cruelty Act	Punhana
2.	60	20.02.2024	13(2), 17 HGS & GS Act and 11 Animal Cruelty Act, 120-B IPC	Ferozepur Jhirka
3.	36	29.01.2024	13(2), 17 HGS & GS Act and 11 Animal Cruelty Act, 120-B IPC	Ferozepur Jhirka
4.	221	05.08.2024	13(2), 17 HGS & GS Act and 11 Animal Cruelty Act, 61(2) BNS	Punhana
5.	455	09.02.2023	13(2), 17 HGS & GS Act and 11 Animal Cruelty Act, 120-B IPC	Ferozepur Jhirka
6.	320	12.06.2016	13(1) HGS & GS Act and 11-59-60 Animal Cruelty Act	Punhana
7.	219	01.06.2022	13(2), HGS & GS Act and 11 Animal Cruelty Act, 11-59-60 Animal Cruelty Act	Punhana
8.	152	30.04.2017	323, 186, 201, 332, 353, 506, 148, 149 IPC and Sections 13(3) HGS & GS Act	Punhana, District Nuh
9.	33	03.02.2018	323, 353, 186, 307 IPC and 25-54-59 of Arms Act, 5/13(2) HGS & GS Act	Punhana



3. The facts and allegations are being taken from the translated copy of FIR (Annexure P-1) which reads as follows:

To SHO, Jai Hind. Today I SI alongwith ASI Manoj Kumar 146/Nuh, ASI Raj Kumder 53/Nuh, HC Satish Kumar 21/Nuh, C. Bhawani Singh 768/Nuh, C. Vinay Kumar 298/Nuh was present at Turn of Malhaka for crime Patrol and investigation in Government vehicle Bolero No. HR-03GV-5002 being driven by SPO Surendra 437. When a special informer met and informed that Sarajuddin alias Kala and Nizamuddin alias Musa sons of Sarfuddin, residents of Village Badeed, Police Station Punhana, District Nuh are slaughtering a cow together inside their house and are filling the cow meat in plastic bags and gunny bags, which they will take on motorcycle to sell. If a raid is conducted immediately at the house of Sarajuddin alias Kala, the accused can be arrested alongwith cow meat and cow slaughtering tools. Believing the information to be true and informing fellow officials about the information, a raiding party was prepared. The police station was informed about sending more police force to village Badeed. After that, the passerby were asked to join the raiding party. All the passersby expressed their legitimate compulsions and left without giving their names and addresses. When I SI reached the house of Sarajuddin alias Kala in the government vehicle of his fellow employees and raided the house, he saw that the main door of the house was locked from outside. When he looked through the doors drawers, both the persons were seen slaughtering a cow inside the house and filling the cut cow meat in plastic bags and sacks. Both the persons had an axe and a knife in their hands. The special informer identified the person with the axe as Sarajuddin alias Kala son of Sarfuddin and the person with the knife as Nizamuddin alias Musa son of Sarfuddin, resident of Village Badeed, Police Station Punhana, District Nuh. When I SI and other employees started entering inside by opening the gate, a person named Sarajuddin alias Kala threw an axe used for slaughtering cows towards the police party with an intention to kill them, due to which I SI and other employees narrowly escaped. Then both the persons started running by climbing over the wall, whom I SI tried a lot to catch with the help of fellow employees, but managed to escape due to the village population. Then I SI returned the place of fellow employees and saw 60 Kgs of cow meat was found in a sack and plastic sheets alongwith a scale on which 10 Kgs best steel is written, 3 iron weight of 2 Kg, one iron weight of 1 Kg and wooden block, 02 knives and one axe and 12 empty yellow plastic



sheets. The verandah was photographed/videographed with the mobile phone of the fellow employee of the case. At that time, the accused Sarajuddin alias Kala and Nizamuddin alias Musa who had fled, came back to the spot with sticks, axes and in collusion with 20/25 other persons and attacked the police party with the intention to kill them, due to which C Bhawani Singh 768/Nuh and driver SPO Surendra 437 got severally injured. Then, as soon as more police force arrived at the spot, all the persons fled from the spot into the densely populated area and could not be found even after searching. The Special Informer told the names of some of the persons who attacked as Sarajuddin alias Kala son of Sarfuddin, Bhujji wife of Sarajuddin alias Kala and Adil son of Sarajuddin alias Kala, Aas Mohammad alias Kallu and Nizamuddin alias Musa sons of Sarfuddin, Khalid and Khalli sons of Nasru, Mustakin alias Ajji sons of Nizam, residents of Badeed Police Station Punhana, District Nuh. 60 Kg cow meat was found in gunny bags and plastic sheets in the verandah. The weighing scale on which 10 Kg BEST STEEL is written including steel plate, 03 iron weights of 2 KG, one iron weight of 1KG and wooden block, 02 knives and one axe and 12 empty yellow plastic sheets were separately packed in a plastic bag and stamped with SR seal and the list was taken into police possession as proof by seizure, signatures of witnesses were taken on the list and Veterinary doctor Raj Kumar has been informed to get the cow meat tested on the spot. Due to the injuries sustained by CI Bhawani Singh 768/Nuh and SPO Surendra 437, a separate application is being written to CHC Puhana for physical examination alongwith HC Satish Kumar 21/Nuh. The accused Sarajuddin alias Kala, Nizamuddin alias Musa, Bhujji, Adil, Aas Mohammas alias Kallu, Khalid, Khalli, Mustakin, Ajji and other names and address unknown above have slaughtered cows with the intention of selling them and in collusion with each other and injured the police party with the intention to kill them and have committed the crime under Sections 191(3), 190, 121(1), 132, 221, 109 BNS 3/13(1), 8/13(3) HGS GS Act 20, 2015, Hence a written report is being sent to the police station through Vinay Kumar 298/Nuh for registration of case. After registration, case number be intimated. Special report of the case be sent to the higher authorities through a mobile carrier and the SOC team and the FINGERPRINT Team should be sent to the spot. Another Investigating Officer be sent for further investigation of the case. I SI alongwith other fellow employees are present on the spot.”

4. Counsel for the petitioner submits that the petitioner would have no objection in case any stringent conditions this Court might put upon the petitioner including surrender



of fire arms, and in case, the petitioner repeats the offence, the State shall be liberty to file an application for cancellation of bail. He further contends that pre-trial incarceration would cause an irreversible injustice to the petitioners and his family.

5. The State’s counsel opposes bail on instructions. He submits that 09 other FIRs are pending against the petitioner, whereas, the petitioner has mentioned only two other criminal cases in his petition. Considering the nature of allegations in the present case, this Court does not think that the criminal history was intentionally concealed by the petitioner.

REASONING:

6. Role attributed to the petitioner is that initially he was having knife but he ran away from the spot prove that he was no intention to harm the raiding party which makes his case for bail. 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.

7. Given the above, the penal provisions invoked coupled with the primafacie 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. 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.

8. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory 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 Ilqa 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.

9. 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)	

10. This order is subject to the petitioner’s complying with the following terms.
11. The petitioner is 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 petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. 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. 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 members of society, complainant/victim 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 from today 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 it is 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. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. 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. 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.

16. ***This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, which attracts sentence of more than 07 years, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.***

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

18. 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.

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

22.04.2025
Jyoti-II

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: No.