

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20891-2025
Reserved on: 06.05.2025
Pronounced on: 16.05.2025

Pardeep @ Painter ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sushil Sheoran, Advocate for the petitioner.

Mr. Naveen Kumar Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
631	11.12.2024	Bhiwani Sadar, District Bhiwani	109(1), 126, 3(5), 351(2) BNS 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 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That the present case was registered on the application of Nitish S/o Vedpal in which he submitted that about 20-25 days earlier, he had minor altercation with present petitioner namely Pardeep @ Painter, Neeraj @ Desi and Vipin regarding bike collision, however no report was lodged in that regard and since then there was rivalry between them. On 11.12.2024, he along with his friends Mohit S/o Vinod, Ankit S/o Manjeet, Yogesh S/o Sadhu and Hemu, residents of Manheru were going to their houses on two motorcycles bearing registration No. HR-34H-6315 and HR-16T-9479 after taking fuel from petrol pump for marriage ceremony and when they reached near the plot of Amarpal S/o Rishal Singh then Neeraj @ Desi, present petitioner, Vipin and Noliya came on the road and forcibly stopped their motorcycles and started beating them with lathies and dandas. Neeraj @ Desi fired shot

with intention to kill him, but he (complainant) saved himself by bending down. Thereafter, they all threatened to kill him and his friends and fled away with their respective lathi, danda, bodkin (pointed weapon) and pistol. The complainant has sought legal action against accused persons. True translated copy of FIR is annexed with petition as Annexure P-1.”

4. Counsel for the petitioner submits that he has no objection if this Court while granting bail imposes any stringent conditions including surrender of fire arms, if any, and shall not enter the residence of the victim/complainant. On instructions, counsel further submits that petitioner shall not repeat the offence and would not involve himself in the offence, where the sentence is more than 7 years and if he does so, he has no objection if the State files an application for cancellation of bail. He further contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family and his case is on parity with co-accused Vipin Kumar, who has been granted bail by this Court vide order dated 28.03.2025 passed in CRM-M-12649-2025.

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:

“14. That present petitioner is named in FIR. He along with other co-accused persons caused injuries to complainant and his friend namely Ankit with wooden stick after restraining their way. He also extended life threats to complainant and his friends while fleeing from the spot. No specific injury attributed to the petitioner.”

REASONING:

7. Perusal of the facts clearly point out that it is Neeraj who had fired shots at the complainant. The inspection of the spot of crime corroborates the presence of empty cartridge bullet which corroborated the evidence of the complainant about firing. Needless to say that firing was done with an intent to kill but the allegations of motive are not attributed. 20-25 days earlier, complainant had altercation with Neeraj, Pardeep (petitioner) and Vipin regarding bike collision and for that, they were nursing grudges. Although the petitioner was part of the gang who had fired upon the victim but petitioner’s criminal bent of mind is missing because of absence of criminal past. If the petitioner has criminal antecedents, it would certainly corroborate his involvement and participation through his previous criminal past but in the present case, the factor which goes in favour of the petitioner is that he has no criminal history and is a first offender. Thus, on this ground alone, petitioner’s role is different to the other accused and this Court does not deem it appropriate to extend further custodial interrogation or pre-trial

incarceration with clarification that petitioner has been granted bail on the ground that he has no criminal history and did not fire upon the complainant, as such any other accused who has criminal antecedents or the main accused who had fired shall not be entitled to bail on parity with the petitioner for the reason for which the petitioner is granted bail.

8. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

9. Per paragraph 01 of the bail petition, the petitioner has been in custody since 11.12.2024. Per the custody certificate dated 05.05.2025, the petitioner's total custody in this FIR is 04 months and 23 days.

10. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie 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.

11. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

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. This order shall come into force from the time it is uploaded on this Court's official webpage.

13. 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.

14. 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)	

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

16. The petitioner is directed to join the investigation 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. 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.

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 (Crl.) 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. 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.

22. **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 have the liberty to 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. 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.

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

(ANOOP CHITKARA)
JUDGE

16.05.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.