

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28653-2025
Reserved on: 09.07.2025
Pronounced on: 24.07.2025

Tushar @ Gillu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Varun Singh Dhanda, Advocate,
for the petitioner.

Mr. Naveen K.Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
2073	06.12.2022	Shivaji Nagar, Gurugram, Distt. Gurugram	392, 394 IPC (Sections 397, 120-B IPC (Section 25(1B)(a) of Arms Act added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. As per paragraph 12 of the bail application and as per paragraph 12 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	295	20.12.2022	387, 506, 34 IPC	Sector-37, Gurugram
2.	265	19.10.2022	323, 325, 427, 506, 34 IPC	Civil Lines, Gurugram
3.	54	08.03.2021	147, 148, 149, 323, 506 IPC	New Colony, Gurugram
4.	2087	07.12.2022	379A, 34 IPC	Shivaji Nagar

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 leading to registration of the FIR aforementioned are that on 06.12.2022, an information was received in the police station regarding firing at Shiv Jewellers, Om Nagar, Gurugram. On receiving the said information, the police party proceeded towards the place of occurrence, from where they came to know that injured Trilok Chand had been admitted in Medanta Hospital, Gurugram for medical treatment. Upon reaching Medanta hospital, opinion of doctor was obtained regarding the injured to give statement upon which the doctors declared the injured to be unfit for giving statement. The police officials however

met Devender Kumar (nephew of injured Trilok Chand) who moved a complaint to the effect that his uncle was running the business of jewellery and he had gone to the shop where three unidentified persons with muffled face came in the shop and opened fire at his uncle as they had come with the intention of robbing the jewellery shop. It was also alleged that one of the assailants had fired upon his uncle as a result of which the bullet hit the stomach of his uncle and thereafter all the three unknown persons fled from the shop on their respective motorcycles. He further alleged that during the said process, the accused persons had also snatched Redmi mobile phone of his uncle bearing SIM Card numbers 99119xxxx and 98103xxxx. Thereafter, he took his uncle to Medanta Hospital for treatment. Legal action was sought. On the basis of these allegations, the above captioned FIR was registered and investigations were taken up in the matter.”

4. Counsel for the petitioner seeks bail on the grounds of prolonged custody.
5. The petitioner’s counsel submits that in case the petitioner is granted bail, he has no objection to imposing of any stringent conditions, including surrender of firearms, restricting entry of the petitioner in the property/home/workplace of the complainant/victim and the petitioner further undertakes that during the period of bail, he shall not commit any offence and in case he commits any offence in which the sentence prescribed is more than three years, the State shall be at liberty to file an application for cancellation of bail, to which he will not raise any objection. He contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.
6. The State’s counsel opposes bail and refers to the status report.
7. It would be appropriate to refer to the following portions of the status report, which reads as follows:

*“13. EVIDENCE AGAINST THE PETITIONER That as far as the evidence against Tushar is concerned, it is submitted that there is sufficient incriminating evidence against the petitioner in the form of CCTV footage collected from the crime scene which was taken into police possession during the investigation and the disclosure statement in pursuance of which, he got recovered one country made pistol and one live cartridge. The investigations have also revealed that the petitioner Tushar was the mastermind behind the conspiracy with Vikram, Inder and CCL L***@S**** to rob the jewellery shop. Additionally, chance prints lifted from the crime scene, recovered arms, empty bullet shells and finger prints of the accused are also piece of evidence against the petitioner. Concededly, the petitioner was not named in the FIR, however, he is nominated as an accused in the present case on the basis of the CCTV footage in which he is visible at the crime scene.*

14. ROLE OF THE PETITIONER That as far as the role of the petitioner in the commission of the present crime is concerned, it is submitted that the petitioner Tushar has played an active role in both planning and executing the robbery. He was the mastermind behind the crime, identifying the target and recruiting accomplices to carry out the act. He coordinated with Inder to procure weapons and led the group into the jewellery shop. During the robbery, he was the one who fired at the shopkeeper when he resisted, demonstrating his direct involvement in the violent aspect of the

crime. After the failed attempt, he facilitated the escape of his accomplices and took measures to destroy evidence, including burning clothes and breaking his phone. His actions indicate a high level of premeditation and an effort to cover his tracks, reinforcing his central role in the crime.”

REASONING:

8. The petitioner is one of the main accused, he is not entitled to bail on merits. However, counsel for the petitioner seeks bail on the ground of prolonged custody, as such, he is entitled to bail on this ground alone. 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. As per paragraph 3 of the bail petition, the petitioner has been in custody since 20.12.2022. As per the custody certificate dated 08.07.2025, the petitioner’s total custody in this FIR is 02 years, 06 months and 08 days. 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.
9. 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.
10. 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.
11. 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) | |
12. This order is subject to the petitioner’s complying with the following terms.
13. 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.
14. 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.

15. 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 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.

16. 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."

17. In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

18. 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.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

24.07.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.