

CRM-M-31848-2024 and connected case

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31848-2024
Reserved on: 06.03.2025
Pronounced on: 26.03.2025

Sumit @ Kali ...Petitioner

Versus

State of Haryana ...Respondent

CRM-M-5030-2025

Hemant Yadav ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Anurag Arora, Advocate
Mr. Saurabh Sharma, Advocate
Mr. Vikrant Rana, Advocate
for the petitioner(s) in CRM-M-31848-2024.

Mr. Akshay Jindal, Advocate and
Mr. Vrishank Suri, Advocate
for the petitioner(s) in CRM-M-5030-2025.

Mr. Aashish Bishnoi, DAG, Haryana,

Mr. Munish Soni, Advocate
for the injured.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0436	28.10.2023	Khedki Daula, District Gurugram	25(1-B)(a) Arms Act 1959, Sections 147, 148, 149, 285, 307, 323 IPC (Sections 27(2) Arms Act 1959, Sections 427, 506, 212 IPC added later on) (Charges framed under Sections 147, 148, 323, 307, 506, 285, 212 r/w 148 IPC and 25(1-B) and 27(1) of Arms Act

1. This order shall dispose of two petitions as mentioned above. For the sake of brevity, facts have been taken from *CRM-M-31848-2024 titled as Sumit @ Kali vs. Sate of Haryana.*

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2. The petitioner(s) incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC (483 BNSS 2023) seeking regular bail.

3. In paragraph 16 of the bail petition (CRM-M-31848-2024), the accused declares that he has no criminal antecedents. However, as per para 14 of the petition as well as custody certificate filed in CRM-M-5030-2025, petitioner-Hemant Yadav has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	433	2023	148/149 IPC and 323/325/506 IPC	Kherki Daula, Gurugam

4. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the brief facts of the present case are that on the intervening night of 27/28.10.2023, information was received that Lalit and Chirag @ Chintu are admitted in Fortis Hospital after getting injured in a fight. On this information, ASI Charan Singh reached Fortis Hospital and obtained the rukka and MLRs. The injuries were mentioned to be suffered with dangerous firearm. Jatin (brother of injured Chirag) submitted a complaint alleging that he is resident of village Shikohpur, District Gurugram. On 5.10.2023, his uncle Joginder and Parasram were beaten up by the residents of village, namely, Hemant and Ankit and their friends. Regarding the said incident, they came to know that day that Hemant, Ankit and Sumit and 2,3 other boys along with them were sitting at Shishpal's office Shikohpur turn. In order to talk with them, he alongwith his brother Chirag @ Chintu and Lalit, Kapil, and Yoginder reached Shishpal's office on Shikohpur turn. When they were having the talks, then Sumit, 2-3 boys sitting there got angry and started abusing them. When they protested, Ankit took out his pistol and pointed towards them and asked them to go away from there, else he would shoot them. When they were returning home after coming out of their office, then Kamal son of Narender came in Brezza Car No. HR-26-ES-6016 and as soon as he got out of the car, he started abusing them as to how they dared to come to their office, then a car make Scorpio color white came and stopped with great speed, from which Shishpal son of Jai Bhagwan, Sanjay son of Dharmender and Rohit son of Sube Singh got down from their car Scorpio armed with sticks and pistol and started abusing. In the mean while, Ankit, Hemant and Sumit and their 2-3 other friends sitting in his office came out and as soon as they came out, they fired 2-3 shots in the air and started beating them with the sticks in their hands. Then Shishpal fired a direct

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shot from the pistol in his hand which hit Lalit. Sumit and Ankit hit them directly with the pistols in their hands, whose bullet hit Chirag @ Chintu's leg. Kamal fired directly with the pistol he was holding in his hand, but he had narrowly escaped. Shishpal, Rohit, Kamal, Hemant, Ankit, Sanjay, Sumit and their other friends together, beat them with sticks and fired direct bullets at them with the intention of killing them. They fled from the spot in their respective vehicles. Lalit and Chirag were taken to Aarvy Hospital, Sector-90, Gurugram for treatment. Thereafter, they got them admitted to Fortis Hospital, Gurugram for better treatment. The complainant prayed for taking legal action against the accused. Thereupon, the above mentioned FIR was registered.”

5. Petitioner(s) seeks bail on the grounds of prolonged custody i.e. from 03.12.2023. The petitioners’ counsel prays for bail further separation from parents and detention in protective care would cause an irreversible injustice to the petitioner and their family. Counsel further refers to paras 8 & 9 of the petition, which reads as follows:-

“That it is submitted that the investigating agency during investigation found that on the alleged date of occurrence there was a birthday celebration in the office of Shishpal, and it was the complainant party who came there as aggressors. Joginder who is from the complainant side gave one knife blow on the arm of the Ankit and a cross FIR was registered against the complainant party and the same is a matter of record. Even during the alleged occurrence, the petitioner is empty handed and the one who is trying to present condition.

9. That it is submitted that the complainant's allegations with regard to the role of the petitioner is falsified from the CCTV footages of the place of occurrence.”

6. The State’s counsel opposes bail and refers to the reply.

7. Petitioner’s (Sumit) role has been mentioned in para 13 of the reply, which reads as under:-

“13. That the role of the petitioner Sumit @ Kali in the present case is that he along with other accused had given lathi and danda blows to the complainant party. In the CCTV footage of the place of occurrence, the petitioner is seen giving beatings to the complainant party.

8. Role of the petitioner-Hemant Yadav has been mentioned in para 18 of the reply (in CRM-M05030-2025) which reads as under:-

“18. That the role of the petitioner in the present case is that he, alongwith

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other accused, had given lathi and danda blows on the heads and feet of Surender and Chirag belonging to the complainant party. His accomplices had fired shots as well. In the CCTV footage of the place of occurrence, the petitioner is seen giving beatings to the complainant party.”

REASONING:

9. Considering that as per paras of the reply (as mentioned above), weapon attributed to the petitioners, is danda, coupled with the fact that petitioners are in custody in the present case for around 01 year & 03 months, petitioners are entitled to bail

10. 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.

11. 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 further pre-trial incarceration at this stage.

12. It is clarified that petitioner has been granted bail on the ground that he was attributed a danda blow and his stand is that he was not present at the spot, thus petitioners’ shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

13. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners makes a case for bail.

14. Given above, provided the petitioners are not required in any other case, the petitioners 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.

15. While furnishing a personal bond, the petitioners 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)	

16. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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

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circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

17. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners 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.

18. Given the background of allegations against the petitioners, 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 petitioners 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 petitioners 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.

19. 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."

20. It is clarified that if the petitioners violate 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 petitioners move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

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21. **This bail is conditional, and the foundational condition is that if the petitioners indulge in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

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

23. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners 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.

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

(ANOOP CHITKARA)
JUDGE

26.03.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.