

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

233

CRM-M-30227-2025
Date of Decision: 18.08.2025

Aarif and another

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Umesh Kumar Kanwar, Advocate
for the petitioners.

Dr. Jasmine Gill, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
28	02.02.2022	Sadar Jhajjar, District Jhajjar	323, 365, 395, 506 IPC

1. The petitioners 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. In paragraph 18 of the bail petition, the petitioners declare that they have no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“4. That shorn of unnecessary details, the fact giving rise to the registration of the present FIR are that on 02/02/2022 when ASI Vinod Kumar was present in the Court, he received an information from Police Post Dulina that 15 to 20 persons in the night time had snatched goods by confining guard at the construction site of Omparkash Sharma son of Dharam Dutt Sharma resident of Nozil (Mathura). On this information investigating agency reached at the place of occurrence where Omparkash Sharma met the investigating agency and moved a complaint to the effect that "To Incharge Police Post Dulina Jhajjar. I Omparkash Sharma son of Dharam Dutt Sharma resident of Nozil (Mathura) is presently working on the post of Project Manager in Rajender Mittal Construction Company. At



*present work of the company for club house is being carried out at Sector 8 of Reliance Company. Work place is situated at a distance of 500 meter inside the main road and at a distance of 1 K.M. from Yakubpur Chowk. On 02.02.2022, at about 1 A.M., 15 to 20 persons came and confined the guards and shattering plate 3(1)*2(1)=100 nose laser, 100 straider- 2.5 meter, channel of 70/360 pieces and iron rod (sariya) 3000 kg and other stuff was loaded in vehicle and taken away. That after going 2 km away from the place of occurrence, after beating and scolding they said that "kisi ko btaya toh jaan se maar denge and left the guards there. That legal action may be taken against them. I after introspection gave you the complaint.*

5. That on the basis of aforementioned complaint, FIR No.28 dated 02.02.2022 was initially registered U/s 395, 365, 323, 506 of IPC at Police Station Sadar Jhajjar and the investigation was set into motion."

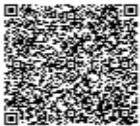
4. The petitioners' counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

5. The petitioners' counsel submits that the petitioners would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioners repeat the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioners shall have no objection.

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

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

"25. That the present petitioners were actively involved in the present offence as the present petitioners along with other co-accused Sulkhan @ Sanjay Thakur, Vishnu, Indrapal, Asif, Rais, Ahmed, Israr, and Aslam hatched a criminal conspiracy to commit theft. On the intervening night of 01/02/2022, they reached an under-construction site in an SX-4 car and a canter vehicle with the intent to steal. Upon encountering two security guards, they forcibly unpowered, assaulted and tied them up threatening them with death to prevent any resistance. Taking advantage of the fog and darkness, the accused loaded a large quantity of iron rods



and shuttering material into their vehicle and fled via a village road, later releasing the guards. The stolen goods were sold in Delhi for Rs. 21,70,000, and each accused received a share of the proceeds. The accused have also confessed to being involved in a similar earlier theft on the night of 13/14-01-2022 from another construction site near Silani School on Rewari Road. Hence, they are not entitled to grant regular bail, if grant of concession of bail to them they may flee from trail of the present case or may harass the witnesses of the present case.”

REASONING:

8. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 18 of the status report filed by State, the petitioners have been in custody since 29.04.2025 and their custody is more than 03 months. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie 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, subject to the compliance of terms and conditions mentioned in this order.

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

10. 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 Ilqa 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 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)	

12. This order is subject to the petitioners' complying with the following terms.

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

14. The significant consideration for granting bail is that the Court aims to give the petitioners another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioners also abide by the assurance made on the petitioners' behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

15. This bail is conditional, with the foundational condition being that if the petitioners repeat the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State shall file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

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

17. In *Amit Rana v. State of Haryana*, CRM-18469-2025 [in CRA-D-123-2020, decided on 05.08.2025], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that "To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished."

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

(ANOOP CHITKARA)
JUDGE

18.08.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.