

CRM-M-33888-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33888-2024
Reserved on: 01.04.2025
Pronounced on: 28.04.2025

Bharpur Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
104	26.07.2022	Nathana, District Bathinda	307 IPC and 25 of Arms Act (Section 120B IPC added later on vide DDR No.21 dated 23.08.2022)

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 CrPC, seeking regular bail.
2. As per paragraph 17 of the bail petition as well as custody certificate dated 31.03.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	73	19.05.2021	307/379B/323/324/325/326/34 IPC	Nathana
2	112	13.08.2022	25/54/59 of Arms Act	Nathana, District Bathinda, Punjab

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

“ it has been ascertained that, on dated 26.07.2022, ASI Paramjit Singh 710/Bathinda along with HC Jaskaran Singh 2108/Bathinda and PHG Sukhmanderpal 21985 were on government vehicle were present at T-Point Nathana Dhelwa Road, Ganga for patrolling and checking suspected persons and Bant Singh son of Mukhtiar Singh resident of Village Ganga, Tehsil Nathana, District Bathinda had met and got recorded his statement, which is reproduced as under: -

"Statement of Bant Singh son of Mukhtiar Singh resident of Village Ganga, Tehsil Nathana, District Bathinda. Stated I am agriculturist. I have two children. My elder son Gursewak Singh is aged 28 years and younger daughter Ramandeep Kaur is studying in Canada. Both children are married. On 25.07.2022, after taking dinner, my family was sleeping in their respective rooms. At about 11.30 P.M in the night I had heard a noise of crackers/fire from the room of my son Gursewak Singh. I wake up and rushed to the room of my son, where I have found some unknown persons having fired gun shots from window and my daughter-in-law namely Manpreet Kaur Wife of Gursewak Singh raised alarm/hue and cry. The gun shot hit below the shoulder of my son. I had thereafter arranged a vehicle and carried my son to Civil Hospital, Bathinda. I had left my wife Chhinderpal Kaur with Gursewak Singh and returned home and information provided to you and action be needed to be taken. Sd/- Band Singh and testified by Sd/- Paramjit Singh ASI, Police Station Nathana, District Bathinda."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. Counsel for the petitioner further submits that matter stands compromised between the parties and refers to compromise dated 11.12.2024 (Annexures A1 & A2). He also submits that now complainant has been expired, so no one can authenticate that compromise.

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:

"That as per admitted fact, accused/petitioner Bharpur Singh @ Bhuri is also involved in case FIR No.73 Dated 19.05.2021 U/s 307/379B/324/323/34 IPC registered at Police Station Nathana, District Bathinda, whose trial is also pending adjudication for prosecution evidence, except the present one but still his involvement of him, reflects that he is obsessive kind of person for such like offences as such the petitioner is not deserves with any leniency from the Hon'ble High Court."

REASONING:

7. Annexures A1 & A2 i.e. compromise, has not been refuted by the State, however there is no one to support the same as victim has expired. 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.

8. Per the custody certificate dated 31.03.2025 the petitioner's total custody in this FIR is 01 year, 01 month & 02 days.

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

prima facie analysis of the nature of allegations, fact of compromise and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

10. 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.

11. 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.

12. 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)	

13. This order is subject to the petitioner’s complying with the following terms.
14. 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.
15. 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,

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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.

16. 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."

17. 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.

18. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any similar offence or the offence in which sentence is more than three years, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the 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

28.04.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.