

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-33740-2025
Reserved on: 08.09.2025
Pronounced on: 18.09.2025

Jogender ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manoj Kaushik, Advocate
for the petitioner.

Mr. Atul Gaur, AAG, Haryana.

Mr. Randeep S. Dhull, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
2	07.01.2025	Bawani Khera, District Bhiwani	115/126/3(5)/351(3) BNS (Section 61/109(2)/117(2) BNS added later on)

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 reply filed by the State, which reads as follows:

“2. That the present case was registered on application of Sonu Sharma son of Gopal Sharma in which he submitted that on 06.01.2025, at about 6.22 P.M. he received a call from an unknown person that his brother (Naveen) was lying on Pur road in injured condition, upon which, he reached at the spot and found that his brother was lying there in injured condition and blood was oozing from the injuries. He shifted his brother to Civil Hospital, Bawani Khera from where his brother was referred to Bhiwani. His brother disclosed to him that when he was going for walking towards village Pur, an Alto car came from behind and directly hit him. When he got up and started walking, then three persons alighted from the said car, blocked his way and caused injuries with "Farsa" and iron rod on his hands, legs and head and also extended threats to kill him. Thereafter, out of them one stated that Raj Kumar someone is coming, let's go. After that they left him and went away. His brother has already having a dispute with his maternal uncle's sons namely Jogender and Bhupender and he has suspicion that they caused the

injuries to Naveen. Request was made to trace out the culprits and take appropriate legal action against them. True translated copy of FIR is already annexed with the petition as Annexure P-1.

3. That Medical Officer found six injuries on person of injured Naveen. The complete copy of MLR is already annexed with petition as Annexure P-3. Injuries on person of injured Naveen are as under:-

i) Laceration of 0.5 cm and 0.2 cm over left leg adv xray left leg ortho opinion.

ii) Swelling over right leg adv xray right leg ortho opinion.

*iii) Swelling of 4*4 cm over left forearm and wrist adv xray left forearm ortho opinion.*

*iv) Swelling of 5*4 cm over right forearm with bone protruding out adv xray right forearm with wrist ortho opinion.*

*v) Laceration of 6*2 cm over right side of forehead adv ncct head sx opinion.*

*vi) Laceration of 03.0*2 cm with swelling over right arm adv xray right arm ortho opinion.”*

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.

5. The petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats 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 petitioner shall have no objection.

6. The State's counsel opposes bail and refers to para 20 of the reply, which read as follows:

“20. That present petitioner is named in FIR. He actively participated in this crime by hatching conspiracy of this crime with co-accused person Bhupender and he also pointed out place of conspiracy. The present petitioner informed about location of the injured Naveen by miss call on mobile phone of accused Bhupender. The present petitioner can influence the material witnesses of this case if he released on regular bail. There are sanguine chances of his conviction. The present petitioner is not law abiding citizen and had committed a serious offence. The present petitioner is not entitled to any relief as prayed for and the petition of the petitioner is liable to be dismissed.”

7. Although there is evidence of motive against the petitioner, but the role attributed to the petitioner as per investigation is only regarding the racky of the victim and the main accused is Bhupinder, who got recovered the iron pipe. Needless to say, the petitioner had some role, but the fact also remains that it cannot be stated what kind of injury he conspired to inflict upon the victim. Furthermore, the petitioner has already

been incarcerated for six months and 20 days during the trial, has no criminal antecedents, and is aged 52 years, which is a sufficiently mature age that would assure this Court that if this Court releases the petitioner on bail, then there might be fewer chances of him repeating the offense, and to ensure that he does not do so, this Court would impose stringent conditions.

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.

9. Per paragraph 02 of the bail petition, the petitioner has been in custody since 16.02.2025. Per the custody certificate dated 05.09.2025, the petitioner's total custody in this FIR is 06 months and 20 days.

10. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? —Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? —Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.² Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.³ Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.⁴ When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.⁵

11. Given the above, 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.

¹ Supreme Court of India in *Vaman Narain Ghiya v. state of Rajasthan*, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

²Supreme Court of India in *State of Kerala v. Raneef*, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

³ Supreme Court of India in *Siddharam Satlingappa Mhetre v. State of Maharashtra*, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

⁴ Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

⁵ Supreme Court of India in *Sanjay Chandra v. CBI* , [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

12. 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.
13. 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.
14. Given the 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 or duty Magistrate, with or without sureties, with a maximum bond amount not to exceed INR 10,000.
15. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 10,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the "Chief Judicial Magistrate" of the concerned Sessions Division; or a fixed deposit made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.
16. While furnishing a personal bond, the petitioner shall mention the following personal identification details:
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| 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) | |
17. This order is subject to the petitioner's complying with the following terms.
18. 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.
19. 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.

20. 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.

21. 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."

22. 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.

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

desirable to impose the following additional condition.

24. This bail is conditional, with the foundational condition being that if the petitioner repeats 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.

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

26. In Amit Rana v. State of Haryana, CRM-18469-2025 [Decided on 05.08.2025], in CRA-D-123-2020], 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.”

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

(ANOOP CHITKARA)
JUDGE

18.09.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.