

CRM-M-34223-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34223-2025
Reserved on: 14.07.2025
Pronounced on: 17.07.2025

Beeka Deen ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
37	30.04.2025	Division No.3, Jalandhar	109, 190, 191 BNS 2023

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 16 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:

“That on 30.04.2025, the complainant Saif Ali @ Shaunki got recorded his statement before the police stating therein that on 30.04.2025, he along with his maternal uncle's son Mustafa Pamma came present in the office of Superintendent of Police (D), Jalandhar (Rural), in connection with inquiry of FIR No. 31 dated 11.04.2025 under Section 109, 115(1), 115(2), 324(4), 126(2), 351(2), 190, and 191(3) of the Bharatiya Nyaya Sanhita 2023, Police Station city Nakodar, in car bearing No.PB-04-AA-8497.

2. That at about 02:20 P.M., they came to shop at Jaggi Naanwala to have lunch. They parked the car on one side, and when they alighted from the

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car, suddenly a white colour Swift car bearing No. PB-08-FG-4583, in which Gulzar Chauhan, Dishu, Haneef @ Neefu and Bagha were present, arrived and hit the car into Mustafa Pamma. As a result, Mustafa Pamma fell on the ground.

3. That Gulzar Chauhan was armed with a Kirpan, Dishu was armed with a Dattar, and Bagha was armed with a wooden handle. All of them started beating Mustafa Pamma. When the complainant tried to save Mustafa Pamma, they also tried to hit the complainant, due to which the complainant stood aside.

4. That Haneef @ Neefu got hold of Mustafa Pamma, and accused Gulzar Chauhan with his Kirpan, Dishu with his Dattar, and Bagha with his wooden handle inflicted injuries on the person of Mustafa Pamma with the intention to kill him. Mustafa Pamma kept raising his hands to protect himself, but the accused inflicted injuries with their respective weapons.

5. That when other persons gathered at the spot, all four accused persons escaped from the scene in their car with their weapons. The complainant witnessed the entire occurrence and stated he would produce a pen-drive containing the videography of the incident.

6. That the complainant further stated that three or four unidentified persons, along with the aforementioned four accused, gave a merciless beating to his maternal uncle's son. He arranged a vehicle and got Mustafa Pamma admitted to Unity Critical Care Multi Speciality Hospital, Partap Bagh, Jalandhar.

7. That the motive behind the occurrence was a prior dispute between Mustafa Pamma and the accused persons. Based on the statement of the complainant, the present FIR was registered under Sections 109, 190, and 191 of the Bharatiya Nyaya Sanhita, 2023.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that 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, or commits any offence under the NDPS Act, where the quantity involved is more than half of the intermediate, or

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commercial quantity, or violates S. 19, or 24, or 27-A of the NDPS Act, the State may file an application to revoke this bail before the concerned Special Judge or Sessions 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 the reply.

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

“ROLE OF THE PETITIONER:

1. That the petitioner has been specifically named by the victim, Mustafa Pamma, in his detailed statement recorded after regaining consciousness. The victim categorically stated that the petitioner, along with other co-accused, arrived at the scene in a white Mahindra Scorpio and remained present during the entire brutal assault. His presence is not inferred but based on the direct and voluntary statement of an eyewitness after medical recovery, which enhances its evidentiary value.

2. That the victim further deposed that the petitioner, though seated in the vehicle, was actively provoking the assailants by raising lalkaras and shouting for them to "beat" the victim. This conduct demonstrates clear mental participation and intent. Such incitement fulfills the requirement of common intention under Section 189 of the Bharatiya Nyaya Sanhita, 2023 (equivalent to Section 34 IPC) and also constitutes unlawful assembly under Section 191(3) BNS 2023. In Shivappa v. State of Karnataka (2008) 15 SCC 338, the Hon'ble Supreme Court held that instigation or encouragement at the crime scene amounts to abetment and makes the instigator equally liable.”

REASONING:

8. Considering the fact that there is no attribution to the petitioner and he was remain seated in the vehicle and only provoking the co-accused by raising lalkara also the undertaking given by the petitioner, this Court deems it appropriate to grant one opportunity to course correct.

9. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage, but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

10. Given the above, the penal provisions invoked coupled with the primafacie analysis of the nature of allegations, role attributed and the other factors peculiar to this

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case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stag.

11. 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.

12. 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.

CONDITIONS:

13. 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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

14. 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)	

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

16. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

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

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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.

18. Given the background of allegations against the petitioner, it becomes paramount to protect 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 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 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.

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. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

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21. 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.

22. 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, or commits any offence under the NDPS Act, where the quantity involved is more than half of the intermediate, or commercial, or violates S. 19, or 24, or 27-A of the NDPS Act, the State shall file an application to revoke this bail before the Special Judge/ Sessions 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.

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

24. 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.

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

(ANOOP CHITKARA)
JUDGE

17.07.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.