

CRM-M-37618-2024 and connected case

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37618-2024
Reserved on: 01.03.2025
Pronounced on: 07.03.2025

Simarveer Singh alias Saffi alias Simardeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CRM-M-46005-2024

Gurjinder Singh alias Sonu alias Gandhi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. M.S. Saini, Advocate
for the petitioner(s) in CRM-M-37618-2024.

Mr. Raghav Chadha, Advocate
for the petitioner(s) in CRM-M-46005-2024.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
35	04.03.2024	Mahilpur, District Hoshiarpur	307, 506, 120-B, 34 IPC and Sections 25(6) & 27 of Arms (Amended) Act

1. This order shall dispose of two petitions as mentioned above as common question of facts and law are involved in both petitions. For the sake of brevity, facts have been taken from *CRM-M-37618-2024 titled as Simarveer Singh alias Saffi alias Simardeep Singh vs. State of Punjab.*
2. The petitioner(s) incarcerated in the FIR captioned above came up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
3. As per paragraph 7 of the status report, the petitioner(s) have the following criminal antecedents:

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Sr. No.	FIR No.	Date	Offenses	Police Station
1	253	2023	336, 427, 120-B IPC and 25/27/54/59 of Arms Act	Navi Baradari, Commissionerate Jalandhar

4. As per para 6 of the petition bearing number CRM-M-46005-2024, petitioner- Gurjinder Singh alias Sonu alias Gandhi, has the following criminal history:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1	133	22.08.2018	302, 427, 148, 149 r/w 25/27/54/59 of Arms Act	Gondiwal Sahib, District Tarn Taran
2	54	08.05.2017	27/61/85 of NDPS Act	Valtoha, District Tarn Taran
3	253	15.12.2023	336, 427 IPC r/w 25 of Arms Act	Nawi Baradari, District Jalandhar

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

“That it is submitted that FIR No.35 dated 04.03.2024, under Sections 307, 506, 120-B, 34 of Indian Penal Code and Section 25 (6), 27 of Arms Act, 1959, was registered at Police Station Mahilpur, District Hoshiarpur against unknown persons on statement of complainant Kashmir Singh that on 04.03.2024 at about 02:15/2:20 PM, he was standing outside his house. Two "Mona" young persons came there. One person was carrying two pistols in his right and left hand. The second person was also carrying a pistol. They were wearing hoodies having caps on their heads. They were of age 25-30 years. They fired gunshots from the pistols towards him with intention to kill him. But he ran away and one bullet hit in the door of his house. The said assailants exhorted that they have been sent by Kaushal Chaudary and Saurav gangsters and they have to kill him and his son Gopi, who is residing in the USA. After firing gunshots, they sped away towards village DaddaKalan in a silver coloured car. Then he came out of the gate of his house and saw that eight cartridge cases were lying in front of his house. A paper slip was also thrown inside the gate of his house having words "Kaushal Choudary Saurav". His son Gurpreet Singh is residing in the USA. Kaushal Choudary and Saurav gangsters have got gunshots fired at him through unidentified persons with intention to kill him. He is having threat to his life and property.”

6. 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 petitioner(s) and their family.

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

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

“That it is submitted that two unidentified persons had fired gunshots at

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the house of complainant in order to threaten him to pay ransom. A paper slip having words "Kaushal Choudary Saurav" was thrown in his house. Eight Empty cartridge cases were recovered in front of the gate of his house. The petitioner and his co-accused are not named in the FIR. They have been nominated in this case on the basis of secret information. The petitioner was arrested on 11.03.2024. He made disclosure statement giving details about the commission of offence and having in his possession the cars as well as mobile phone used in commission of the offence. On the basis of his said disclosure statement, the petitioner got recovered two cars used in commission of offence. Chasis number of one car was found tampered with. The petitioner also got recovered a broken mobile phone given to him by the co-accused which was used in commission of offence as well as two number plates of the car having fake registration number which were affixed at the time of the occurrence on the Swift Dezire Car. Allegations against the petitioner and others were of managing the ransom money received by the petitioner and others. Said Mohinder Kaur is mother of accused Gurdeep Singh and Harpreet Kaur is wife of co-accused Jagdeep Singh alias Daula. The allegations against the petitioner are grave and serious in nature, therefore, the present petition is liable to be dismissed."

REASONING:

9. There is sufficient prima facie evidence connecting the petitioner(s) with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

10. Per paragraphs 8 & 9 of the bail petitions CRM-M-37618-2024 and CRM-M-46005-2024 respectively, the petitioner(s) have been in custody since 11.03.2024 and accordingly their custody is approximately one year in this FIR.

11. 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.

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(s) make a case for bail.

13. Given above, provided the petitioner(s) are is not required in any other case, the petitioner(s) 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

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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(s) 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. The petitioner(s) shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner(s) 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. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner(s) 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 (CrI.) 458); and Aparna Bhatt v. The State of Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.

17. Given the background of allegations against the petitioner(s), 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(s) 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(s) 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.

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18. 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."

19. It is clarified that if the petitioner(s) 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 petitioner(s) move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

20. **This bail is conditional, and the foundational condition is that if the petitioner(s) indulges 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.**

21. The concerned Judicial Magistrate/ Trial Court is authorized to delete, modify, or relax any of the conditions mentioned above and is competent to do so following the law.

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 Petitioner(s) 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 are allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

07.03.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.