

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

CRM-M-35143-2025
Reserved on: 17.07.2025
Pronounced on: 28.07.2025

Yogesh Kumar @ Yogesh Choudhary ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.S. Sohi, Advocate
for the petitioner (through V.C.).

Mr. Naveen K. Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
319	29.09.2024	Bawal, District Rewari	309(4) BNS (Section 238, 310(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. Per paragraph 20 of the bail application and 15 of status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	323	02.10.2024	309(4), 126(2), 351(2), 3(5), 238 BNS	Bawal

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

“3. That the factual backdrop leading to the registration of the above-mentioned FIR is that the law was set in motion on the basis on a complaint moved by the complainant, stating therein that on 28.09.2024 he was working as a driver in a company and on 28.09.2024 at about 11:30 PM, he left his company on his motorcycle bearing registration no. RJ-02-UO-3076 and was going to his home and when he reached near the bridge of 'Sabi' river at about 12:15 AM to 12:30 AM, a black coloured 'Thar' vehicle came from behind and intercepted his way. It was further alleged that two persons deboarded from the said Thar vehicle and they were having hockey sticks in their hands and hit him on his left hand and left leg. It was further averred by the complainant that when he called for

help, two other persons deboarded from the conductor side of the aforesaid Thar vehicle and out of those persons, one had gagged his mouth, whereas the other had thrown him on the ground and they had taken away his mobile phone, having SIM No. 9950368872, Rs. 2,000/-, his documents and motorcycle bearing registration no. RJ-02-UO-3076. The complainant had further contended that the assailants had given him beatings and had left him at the spot and thereafter, he started moving towards his village and on the way, he took lift from someone and reached his village. He sought legal action against the miscreants. On the basis of these allegations, the FIR aforementioned was registered and the investigations were taken up in the matter.”

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 State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“16. That as per the investigation in the matter, the petitioner had actively participated in the crime complained off in the FIR. The petitioner and co-accused Hemant used to frequent the village as they were working in the company of co-accused Vinay and thus, they were also friends with co-accused Manjeet. They got together 28.09.2024 at Hotel Shahjahanpur Ayur Company and while sitting there, co-accused Chanchal had proposed that as he was in requirement of a motor cycle, they should loot a motor cycle and thereafter, all of them took the aforesaid rented vehicle and thereafter intercepted the complainant and the petitioner and co-accused Vinay and Hemant had got down and assaulted the complainant and snatched his belongings and the motor cycle and thereafter, Chanchal, Hemant and Manjeet followed Vinay and the petitioner, who drove the motor cycle of the complainant.”

7. 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 paragraph 4 of the bail petition, the petitioner has been in custody since 04.12.2024. Per the custody certificate dated 16.07.2025, the petitioner's total custody in this FIR is 07 months and 13 days.

9. 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.

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, 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 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.**

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

28.07.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.