

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

CRM-M-38636-2025
Reserved on: 05.08.2025
Pronounced on: 29.08.2025

Dilsher Singh @ Sunny

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Raghav Soni, Advocate for the petitioner.

Ms. Pooja Nayar Sharma, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
33	03.03.2025	A Division, Amritsar	304(2), 125, 3(5) BNS, 25/54/59 of Arms Act and Sections 21-B, 27-A, 61, 85 of NDPS Act

1 The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2 As per paragraph 18 of the bail petition, the petitioner has no criminal antecedents.

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

“3. That the brief facts of the present are that a case/FIR No.33 dated 03.03.2025 under section 304(2), 125,3(5) of BNS, section 25, 27/54/59 of the Arms Act and section 21-B, 27-A, 29/61/85 of NDPS Act, was registered at Police Station A Division, Distt: Amritsar City, upon the statement of the complainant Pawan Kumar, Son of Dharampal, Resident of Akanakpur, Police Station Chhutmalpur, Police Bhagwanpur. District Station Haridwar, who stated that he is working as a conductor on the bus bearing registration No.UK 07-PA-3090 of Uttarakhand Roadways Rishikesh Depot. That on 03.03.2025 at 12.20 AM, after deboarding the passengers from the bus at the bus stand Amritsar and parkin the bus at one side, he (the complainant) and the driver of the bus were going towards the Dhaba situated near Civil Hospital, Ghah Mandi Amritsar to eat dinner, then a white colour Santro car came and stopped near us in which four persons were sitting and one person remained sitting in the driver seat and three persons came out from the car and manhandled with him. It was further stated by the complainant that one person was armed with pistol and gave blow with the handle of pistol on my head and snatched the cash bag containing Rs.33000/- ticket cutting electronic Machine bearing No.89612445 and ticket copy no.047407, 0071831, 0080951, 0129635 and while firing in air, they snatched the above said

material from me (the complainant) and ran away in their Santro car. Therefore, on the basis of the aforesaid statement, the FIR No.33 dated 03.03.2025 under section 304(2), 125, 3(5) of BNS and section 25 of Arms Act, Police Station Division A, Distt: Amritsar City was registered against the unknown persons.”

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 his 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 the status report.

7 It would be appropriate to refer to the following portions of the status report, which reads as follows:

“6. That the deponent humbly submits that on the basis of disclosure statement of accused named as Goutam, on 05.03.2025, Car Santro vehicle bearing No. PB02-AL-0399, White colour was recovered and during the search of the car, 22 grams of heroin, drug money of ten note of Rs. 200 total currency Rs. 2000/- Indian currency and one electronic weighing machine were recovered from the possession of accused Goutam and thus, the offence under Sections 21-B, 27-A/61/85 was enhanced vide GDR No. 21 dated 05.03.2025”

“17. That the deponent humbly submits that keeping in view the totality of the facts and submissions made hereinabove, it is evident that the allegations levelled against the petitioners and co-accused(s) are that they had snatched the money by using deadly weapons. He is nominated in this case on the basis of information given by the informant. The allegations levelled against the petitioner is grave and serious in nature. There is strong apprehension that the Petitioner/accused can temper evidence by intimidating or influencing the prosecution witness. Further, there is strong apprehension that the petitioner can abscond. As such, the petitioner/accused is not entitled to the relief of Bail. Therefore, the present petition is liable to be dismissed.”

REASONING:

8 Quantity of contraband is not commercial, as such, rigors of Section 37 NDPS Act

do not apply in this case and bail can be taken as bail in ordinary case.

9 There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 08 of the bail petition, the petitioner has been in custody since 23.04.2025. As per the custody certificate dated 04.08.2025, the petitioner's total custody in this FIR is 03 months and 23 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie 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.

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/complainant, members of society, detection squad 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

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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 of release from prison 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.

16 The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. 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 In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

18 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.

19 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.

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

21 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

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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.”

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

(ANOOP CHITKARA)
JUDGE

29.08.2025

Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.