

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43768-2024
Reserved on: 03.04.2025
Pronounced on: 22.04.2025

Gurpreet Singh @ Babbu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
176	13.12.2023	Dakha, District Ludhiana	393, 336 IPC and Section 25 of Arms Act (Sections 387, 473 IPC and Section 27 of Arms Act added later on)

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. In paragraph 11 of the bail petition, as per the custody certificate dated 02.04.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	23	05.04.2019	380, 457, 411 IPC	Bhadaur
2.	52	23.05.2021	379-B, 399, 402, 148, 149 IPC	City Rampura
3.	227	18.12.2023	22, 25 of NPDS Act, 25(6) (7) (8) of Arms Act, 387, 120-B, 336 IPC	Sadar Jagraon

3. The facts and allegations are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

“Statement of Parwinder singh son of Kuldeep Singh r/o House No.1/243, Gurcharan Nagar, College road, Dakha, Police Station Dakha, District Ludhiana aged about 49 years, mb. No. XXX stated that I am resident of above said address. We have our showroom at Jain Bhawan Road, Mandi Mullanpur with name Raju Jewellers, where me and my younger brother Kulwant Singh @ Raju sits there. Today at about 06.00 pm I was at my showroom then a call was received on mobile NO.XXX of our showroom from Mb. NO.+190281xxxxx in which caller said that they have done the

work in front of our house, on which I immediately disconnected the phone and made phone call at home, on which family members told that nothing has happened at home and my brother Kulwant Singh @ Raju also made phone call at home and inquire, on which nothing has been found to have happened at home, on which we return to our home and checked CCTV cameras then on the road leading to my house, one motorcycle on which three persons with muffled faces were riding seen entry and fired gun shots. There are no marks of this firing at our house. During this, again call was received at my mobile phone, who demanded Rs.2 crores as ransom and to face dire consequences for not paying. Leaving my brother at home, I was coming to give information to you, you met me at Hamrbra T-point, Mullanpur Mandi. Legal action be taken against unknown persons for threatening and firing shots. Statement has been recorded, heard, it is correct.”

4. Counsel for the petitioner submits that they would have no objection in case any stringent conditions this Court might put upon the petitioner including surrender of fire arms, and in case, petitioner repeats the offence, where the sentence prescribes 03 years or more, the State shall file an application for cancellation of bail in all FIRs pending against the petitioner. He contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

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

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

“13. That the role of the petitioner in this case is that he along with co-accused have fired in the air from pistols before the house of the complainant and thereafter demanded amount of Rs.2 lacs from the complainant failing which the complainant threatened to face the consequences.”

REASONING:

7. As per the prosecution case, three persons with muffled faces came in front of the house of the complainant on a motorcycle, who were visible in the CCTV footage. The allegations against the petitioner are that he along with co-accused have fired in the air from pistols in front of the complainant’s house and thereafter, they demanded amount of Rs. 2 crore from him on phone failing which he was threatened to face the consequences. (However, in role of petitioner amount mentioned as Rs. 2 lacs instead of Rs. 2 crores). A perusal of para No. 3 of the status report shows that it was clearly mentioned that there is no sign of firing on his house. Moreover, the mobile was used for threatening the

complainant and the motorcycle, on which they came, nothing was recovered from the petitioner. Nevertheless, given the undertaking by counsel for the petitioner that he would have no objection in case the petitioner repeats the offence where the sentence prescribes is three years or more, then the State shall file an application for cancellation of bail in all FIRs pending against the petitioner, as such, he is entitled to bail.

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. As per paragraph 4 of the bail petition, the petitioner has been in custody since 18.12.2023. As per the custody certificate dated 02.04.2025, the petitioner's total custody in this FIR is 01 year, 03 months and 03 days. 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 further pre-trial incarceration at this stage.

9. 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.

10. 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.

11. 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)	

12. This order is subject to the petitioner's complying with the following terms.

13. 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.

14. Given the background of allegations against the petitioner, it becomes paramount to protect the complainant/victim, 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 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.

15. 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."

16. 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."

17. **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 bail in all FIRs pending against the petitioner before the Sessions Court, which shall be at liberty to cancel this bail.**

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

19. 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.

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

22.04.2025
Jyoti-II

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	No.