

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

CRM-M-49579-2024
Reserved on: 05.03.2025
Pronounced on: 17.03.2025

Sunil @ Monu @ Khira ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ravinder Chaudhary, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
560	28.05.2019	Sadar Karnal, District Karnal	224, 225, 307, 120-B, 34 IPC and 25/54/59 of Arms 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. Per paragraph 11 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	487/2019	-	307, 34, 420, 467, 468, 471, 120-B IPC and 25/54/59 of Arms Act	Suratgarh
2.	853/2020	-	506 IPC	Sadar Karnal
3.	235/2016	-	392/394 IPC and 25/54/59 of Arms Act	Yamuna Nagar
4.	467	-	302 IPC and 25/54/59 of Arms Act	Sadar Karnal

However, as per Annexure R-1, petitioner has long profile of criminal cases.

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

“3. That the brief facts of the case are that on 28.5.19, an information/ VT is received at Control Room, Karnal to the effect that there has occurred a fire incident upon which police party present at New Bus stand at Baladi Pass, wherein, three young

persons have got freed one under trial accused from their custody. Upon this information, ASI Sultan along with other police officials reached New Bus Stand, it was found that the injured police officials had been taken to Kalpana Chawla Medical College, Karnal for treatment. Thereafter, ASI Sultan along with other police officials reached Kalpana Chawla Medical College, Karnal and after obtaining the opinion of doctor recorded the statement of injured police official SI Suresh Pal to the effect that on 28.05.2019 an under-trial accused lodged in Jagadhri Jail namely Sunil @ Monu @ Khira was to be produced in the Court of Shri Rajender Singh Dhanda, learned Additional Sessions Judge, Karnal in case FIR No.475/16 under Section 302, 34 IPC and 25-54-59 Arms Act, P.S. Sadar, Karnal. He along with HC Vinod Kumar and Constable Sandeep Kumar were deputed to produce the under-trial in Court. After production of the under-trial in Court, they set out on return journey to Jagadhri Jail.

4. That At about 12:15 pm when they were standing at New Bus Stand near counter no.2, then, suddenly three young persons aged about 25-26 years came and one of them, sprayed something into the eyes of police officials and another person, who were armed with a country made pistol fired at HC Vinod Kumar, however, the bullet missed him. SI Suresh took the carbine of HC Vinod Kumar and just as he was taking position himself to fire the weapon, the said person fired a shot on the back side of his left leg. He fell due to gunshot injury along with Carbine, that person fired another gunshot upon him and took shelter in the side of bus and the gun shot missed him. One of the three person fired two shots at Constable Sandeep which hit him on his both legs, and he fell. Thereupon, under trial accused Sunil @Monu @ khira took out the Hook of the hand cuffs locked with the waste belt HC Sunil Kumar and started fleeing and the accomplice of the under trial tried to fire gun shot at HC Vinod Kumar, then HC Vinod Kumar grappled that person and snatched away the Pistol from the hands of that person. Thereafter, all the four persons fled from the spot. The bystanders present there informed the police and the PCR reached at the spot. The Injured police officials were taken to Trauma Centre GH and then shifted to Kalpana Chawla Medical College Karnal for further treatment. The three accomplices of under trial in custody namely Sunil @ Monu @ Kheera, fired upon the police party with their country made pistol with the intention to free the under trial accused from the custody of the police and to kill the police officials. Based on the said statement, the present FIR was got registered under Section 224, 225, 307, 34 IPC and Section 25-54-59 Arms Act.”

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. Counsel for the petitioner submits that the petitioner undertakes to reform himself and live a decent and peaceful life.

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

6. 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. Per paragraph 8 of the bail petition, the petitioner has been in custody since 02.10.2019. Per the custody certificate dated 14.12.2024, the petitioner's total custody in this FIR is 05 years, 02 months and 02 days. Given the penal provisions invoked viz-a-

viz pre-trial custody in comparison to the sentence provided for the offence, 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. Given the period of long custody, criminal history shall not come in the way of petitioner's bail.

7. 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.

8. 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.

9. 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)	

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

11. 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.

12. 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 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.

13. Till the completion of the trial, the petitioner shall not contact, call, text, message, remark, stare, stalk, make any gestures or express any unusual or inappropriate, verbal or otherwise objectionable behavior towards the victim and victim's family, either physically or through phone call or any other social media, through any other mode, nor shall unnecessarily roam around the victim's home and workplace.

14. 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."

15. 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 be at liberty to cancel this bail.

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

17.03.2025

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.