

CRM-M-51748-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51748-2024
Reserved on: 06.02.2025
Pronounced on: 20.02.2025

Amrik Singh alias Kadda ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. M.S. Virk, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	03.01.2023	Dhilwan, District Kapurthala	364-A IPC (Sections 343, 212, 120B, 148, 149 IPC and Sections 25/27/54- A/59 of Arms Act added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking regular bail.
2. As per paragraph 12 of the bail petition, the accused has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the brief facts pertaining to the case are that the complainant on 03.01.2023 at about 8:00 A.M. went to Gurudwara Sahib for paying her services as Sri Akhand Path was being recited there and at about 2:00 P.M., that the uncle father in law of the complainant person named Surinder Singh informed the complainant that their fodder cart was down-warded lying on road and had also enquired from the complainant about the husband of the complainant person named Lakhwinder Singh. Thereafter, the complainant along with her uncle namely Surinder Singh went to spot and in the meantime, the person named Lakhwinder Singh, who is a reciter (Granthi) of Gurudwara Sahib reached the spot and made phone call on phone no.97793-96306 and 73472-53810 used by the of the husband of the complainant but both the phone were found switched off.

Then the son in law of the complainant named Jagdeep Singh had made a phone call to the younger brother in law of the complainant named Palwinder Singh and informed that Palwinder Singh had received phone call from the person named Sukhjinder Singh, son of the complainant from USA and stated that the husband of the complainant Lakhwinder Singh had been kidnapped and the kidnapper had raised demand of ransom money of Rs.3,00,00,000/- from the son of the complainant named Sukhjinder Singh, the kidnapper had also threatened with the dire consequences if the same matter was disclosed to anyone. The person namely Sukhjinder Singh, son of the complainant disclosed that when he had received the phone call from the husband of the complainant Lakhwinder Singh, then the husband of the complainant namely Lakhwinder Singh had asked him to talk with Var Sahib but no talk could be happened with said Var sahib. The complainant stated that the complete name of Var Sahib was Guriqbal Singh Var son of Nirmal Singh resident of Gazi Gudana and that accused Guriqbal Singh Var had kidnapped the husband of the complainant in a vehicle Make Tata Safari of black colour, bearing Registration no. PB-46-L-0097. The complainant had also stated that after conducting enquiry from the village of the complainant and her family members, the complainant had come to know that the husband of the complainant had been kidnapped for ransom money and the complainant and her family members had not reported the matter due to fear. The husband of the complainant named Lakhwinder Singh appeared before police on 13.01.2023 and got recorded his statement, The offence under section 343 of IPC and 25, 27, 54, 59 of Arms Act was enhanced in the present case vide DDR No.25 dated 13.01.2023. The main accused Guriqbal Singh had got recovered revolver, gun of 12 bore on dated 02.02.2023, co-accused Harmanjeet Singh gotten recovered country made pistol alongwith four live cartridges on dated 02.02.2023. The another co-accused Gurmukh Singh alias Gora suffered the disclosure statement on dated 15.01.2023 and he had got recovered the vehicle Black Safari make Tata Safari bearing Registration no. PB-46-L-0097 used for commission of offence, and on the basis same disclosure statement made by the co-accused Gurmukh Singh alias Gora, co-accused Vijay, co-accused Patwari, Co-accused Karamjit Singh, and the Petitioner/co-accused Amrik Singh alias Kada were nominated as accused vide DDR no.16 dated 15.01.2023. furthermore vide DDR No. 14 dated 06.02.2023 co-accused Layjeet Singh Kang and co-accused Amrit Bal were also nominated as accused in the present case on the basis of disclosure statement made by the accused Nirmal Singh and the main

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accused Guriqbal Singh alias Var co-accused Deepa son of Charan Singh was nominated as accused in this case vide DDR No.23 dated 19.02.2023 and vide DDR No.23 dated 07.03.2023, co-accused Paramjit Kaur wife of late Bittu was also nominated as accused.”

4. The petitioner's counsel argued that petitioner was implicated on the disclosure statement of Gurmukh Singh and further there are 21 witnesses, who have not been examined yet. He further submits that evidence against the petitioner was only providing shelter to co-accused and no ransom money was transferred or paid to the petitioner and he is already in custody for more than two years. He further 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 reply.

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

“5. ROLE OF THE PRESENT PETITIONER

That the petitioner/accused was implicated at the instance of disclosure statement of co-accused Gurmukh Singh alias Gora vide DDR No.16 dated 15.01.2023. That the petitioner/accused is in custody from 16.01.2023. That the petitioner/accused had provided shelter to the co-accused and kept the husband of the complainant namely Lakhwinder Singh at his residence, Khera donna, District Kapurthala from 03.01.2023 to 05.01.2023.”

REASONING:

7. The evidence collected against the petitioner is in the shape of disclosure statement and he is in custody for more than two years. Per paragraph 8 of the bail petition, the petitioner has been in custody since 16.01.2023. Per the custody certificate dated 05.02.2025, the petitioner's total custody in this FIR is 02 years & 17 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.

8. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

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.

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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. 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.

13. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner 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.

14. 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

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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. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

16. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

20.02.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.