

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52452-2024
Reserved on: 08.07.2025
Pronounced on: 31.07.2025

Gajender ...Petitioner

Versus

State of UT Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nitish Kaushik, Advocate for
Mr. Deepinder Singh, Advocate
for the petitioner.

Mr. Manish Bansal, PP, UT Chandigarh with
Mr. Navjit Singh, Advocate
for the respondent-UT.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
24	28.03.2024	Sector 26, Chandigarh	307, 323, 34 IPC and 25/27/54/59 of Arms Act

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 12 of the bail petition, para 8 of the reply as well as custody certificate dated 08.07.2025, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	170	02.08.2019	323/341/506 & 34 IPC	Sector 26, Chandigarh
2	145	16.08.2020	379-B/411/34 IPC	Sector 17, Chandigarh
3	145	22.07.2010	399/402/353/34 IPC	Sector 26, Chandigarh
4	113	12.09.2019	107/151 CrPC	Sector 26, Chandigarh
5	218	2019	323, 341, 506 IPC	Sector 26, Chandigarh

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

“ That the brief facts of the case are that, FIR No.24 Dated 28.03.2024 Under Sections, 307, 323, and 34 of IPC and 25/27/54 and 59 of the Arms Act. The present FIR was registered on the statement of Jagan Nath S/o Badlu that he along with his brother Krishan used to reside at Dhaba. On

the night of March 27th-28th, 2024, they were sleeping at the Dhaba. Around 12:30 AM, a boy named Gajender (present petitioner) arrived and attempted to steal the mobile phone of Anil, who was asleep at that time. Kishan, his brother, witnessed this and immediately confronted Gajender i.e. present petitioner, demanding the return of Anil's phone. Gajender left the scene, but soon returned with Bhura. Upon returning, Bhura grabbed Kishan by the neck and began verbally abusing him for daring to ask for the phone back. Bhura then encouraged Gajender to kill Kishan. Following Bhura's command, Gajender (present petitioner) stabbed Kishan in the chest with a knife. The complainant, terrified, raised an alarm. Gajender (present petitioner) and Bhura fled the scene and while fleeing Bhura gave stick blow to Kapoorey S/o Peetal. Despite being seriously injured, Kishan attempted to chase them, but he collapsed after running a short distance. The complainant, overcome with fear, had concealed himself during the incident and witnessed the entire event. Thereafter, a PCR was called and Kishan was taken to GMCH-32, Chandigarh. As such, the present FIR was registered against the accused persons.”

4. Petitioner seeks bail on parity with c-accused Bhura @ Bhure, who has been granted bail by Coordinate Bench of this Court vide order dated 16.09.2024 passed in CRM-M-37959-2024.

5. 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. Counsel further 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 reply.

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

“4. The petitioner, Gajender has been specifically named in the FIR. He played a pivotal role in the crime, as he first tried to steal the mobile phone of one Anil and when confronted by Kishan he bought his friend Bhura to the place of incident (Dhaba) to take revenge from them. The other co-accused Bhura restrained the victim Kishan and caught hold him

from his neck and told present petitioner Gajender, to kill him. Upon which, Gajender (present petitioner) stabbed the victim, Kishan, on his chest.”

REASONING:

8. Perusal of the file shows that if the story of the complainant is credible, then the offence is very heinous but this Court cannot ignore the fact that stab wound was 1.5cm x 0.5 cm and the injury on the person of the victim has been declared simple in nature, thus coupled with the custody of more than 01 year & 03 months and also the fact that co-accused has already been granted bail, further incarceration would not be justified.
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.
10. Per the custody certificate dated 08.07.2025, the petitioner’s total custody in this FIR is 01 year, 03 months & 10 days.
11. 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.
12. 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.
13. 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.
14. 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) | |
15. This order is subject to the petitioner’s complying with the following terms.
16. 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.

17. 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.

18. 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.

19. 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."

20. 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.

21. 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.

22. 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.

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

24. 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.

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

(ANOOP CHITKARA)
JUDGE

31.07.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.