

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

CRM-M-52537-2024
Reserved on: 07.04.2025
Pronounced on: 21.04.2025

Sunil ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Satbir Singh Gill, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Sunil Sihag, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
191	24.05.2024	Ellenabad, District Sirsa	323/324/326/34/427/506 IPC (Section 326 IPC added later on)

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 10 of the bail application and 20 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1	309	16.08.2021	323/341/34 IPC	Ellenabad, District Sirsa
2	312	19.07.2023	147/149/323/427/506 IPC	Ellenabad, District Sirsa

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

“2. That the brief facts of the case are that case FIR No.191, dated 24.05.2024, under sections 323/324/341/427/506 IPC (sections 326/120-B IPC were added during investigation), PS Ellenabad, District Sirsa/Annexure P-1 was registered on the statement of complainant Ram Chander @ Ramdev son of Om Parkash son of Hanuman Dass, resident of Pohrka, District Sirsa, against (1) Sunil son of Om Parkash (present

petitioner/accused), (2) Aryan son of Satpal, (3) Vijay Kumar son of Gurmukh Singh and (4) Karan son of Krishan, residents of Pohrkan, District Sirsa, by name. English version of extract of FIR is as under:

"Stated that, I am resident of the above address. I am working as a puncture repairer. On 23.05.2024, I and my nephew Deepak Kumar son of Sita Ram, resident of Poharka, we both were going to our home on my Motor cycle No.HR-44M-5405, make Splendor Plus, after worshipping at Gogamedi of our village. It was around 8.30 PM, when I had just gone ahead of Ishwar's house, Aryan son of Satpal, resident of Poharka suddenly parked his motorcycle in front of my motorcycle and stopped me. Behind him was Sunil Kumar son of Om Prakash resident of Poharka who was having a Kapa in his hand. Aryan was carrying a stick in his hand. As soon as he came, Aryan hit on my motorcycle with the stick and Sunil Kumar, while abusing me, hit me on my right hand with the kappa which he was holding in his hand. Meanwhile, Vijay Kumar son of Gurmukh Singh and Karan Singh son of Krishan, residents of Poharka came behind me. Vijay Kumar was driving the motorcycle, he had an iron patti with him. Karan Kumar had an iron rod. Vijay Kumar also hit me on my back with the iron patti which he was holding in his hand, due to which I received injury and Karan hit with the iron rod that he was holding in his hand on my motorcycle, which caused a lot of damage to my motorcycle and Karan hit on my thighs with an iron rod, which caused injuries to my thighs. Because of their attack, my nephew ran to home and called my brother. When I was shouting for help, suddenly seeing my brother Daya Ram coming, all of them ran away with their respective weapons, while extending threat that today you saved because of your brother, next time whenever we find you alone, we will kill you. Then my cousin Shiv Kumar son of Shravan Kumar, resident of Poharka arranged a vehicle and got admitted me in CHC Ellenabad for treatment in an injured state. Due to my severe injuries, the doctor gave me medicine and referred me to the Government hospital Sirsa. Then my family members, instead of taking me to the Government hospital Sirsa, admitted me to the City Health Care Center Sirsa, where I am undergoing treatment now. Sunil Kumar, Aryan, Vijay Kumar and Karan Kumar stopped me and gave injuries to me without any reason and damaged my motorcycle. I had no grudge against them. Strict legal action be taken against these four. I have got recorded statement to you, heard and understood, which is correct. LTI Ram Chander @ Ramdev".

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 their family.

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

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

“19. That the petitioner/accused Sunil Kumar is specifically named in the FIR. During the course of investigation, petitioner/accused has been found involved in the commission of crime. During investigation, petitioner/accused Sunil Kumar suffered disclosure statement, admitted his involvement in the commission of crime alongwith his co-accused and also admitted that on 21.05.2024, he had made a plan alongwith his co-accused Karan, Vijay, Rakesh @ Roky, Monu and child in conflict with law Aryan to inflict injuries to complainant Ram Chander @ Ramdev and got demarcated the place where he had made plan alongwith his co-accused persons and got demarcated the place of occurrence and the place from where he had took Kapa from accused Monu and got recovered one Kapa and one motorcycle No.HR-26AP-9354 make Hero Honda Deluxe, colour Black, used in the commission of crime. The sole sharp injury which was declared Grievous has been specifically attributed to the petitioner/accused. The presence, involvement and active participation of petitioner/accused in the commission of crime was fully established during investigation.”

REASONING:

7. Petitioner is the main accused and sole sharp injury is attributed to the petitioner and 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.

8. Per paragraph 3 of the bail petition, the petitioner has been in custody since 11.06.2024. Per the custody certificate dated 04.04.2025, the petitioner's total custody in this FIR is 09 months and 22 days.

9. 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 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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 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.

16. 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.

17. 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."

18. 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.

19. **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 have the liberty to 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. 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.

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

(ANOOP CHITKARA)
JUDGE

21.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.