

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50300-2025
Reserved on: 01.10.2025
Pronounced on: 31.10.2025

Sunny ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. K.S.Brar, Advocate
for the petitioner.

Mr. Rakesh Kumar Jangra, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
122	31.03.2024	Civil Lines Sirsa, District Sirsa	506/341/324/323/149/148/147/120-B IPC, but charges framed under Sections 148/149/323/325/341/379-B/201 IPC

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 8 of the bail application and of the reply, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	240	26.05.2024	324, 379-B IPC	Civil Lines Sirsa

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

“1. That brief facts of the case are that the present case FIR No.122 dated 31.03.2024 U/S 147/148/149/323/324/341/506 IPC at P.S. Civil Lines Sirsa has been registered on the statement of Ziledar (complainant) son of Chuttkayau resident of Nakhara, Police Station Karnailganj, District Gonda (UP) to the effect that "Complainant is doing the work of selling Ice-Cream and he is the contractor of the hawkers and he set up his Ice Cream Cart at Bhumanshah Chowk, Sirsa. Vikram son of Gond Lal, resident of Kashipur, UP is a contractor of Havmore Ice Cream Company and Vikram is incharge of all the Hawkers of Havmore Company and whenever he (complainant) set up his car and Vikram also sets up his car there and he keeps on restraining him. On 29.03.2024, he had set up his cart at Bhumanshah Chowk, Sirsa and Vikram told

him that his boys have kept their cart at the place of his cart and in this regard, Vikram argued with him. Thereafter, when he (complainant) was coming to his room on his cart at about 11:15 PM, then 5 boys were standing on two motorcycles on the road near Old Court Complex on Balbhawan Road, who stopped him and asked Ice Cream from him and when he was taking out the Ice Cream, all of them attacked upon him and one of the boys gave him blows of some sharp edged weapon my his head, due to which he fell down on the ground and raised noise and then all of the said boys ran away from the spot. On receiving information about this incident, his friend Manish son of Shiv Parshad, resident of Brayan reached at the spot and got him admitted in the hospital. The motive behind this occurrence is that Vikram used to quarrel with him regarding the sale of the Ice-Cream due to which Virkam has caused him injuries by sending his associates and he (complainant) can identify the said persons if they come in front of him. The doctor of the Government Hospital Sirsa has referred him to Agroha and after being discharge from the Civil Hospital Agroha he came at his room. During this quarrel his mobile and some amount was missing and he found Rs.390/- from place near the place of his car."

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 petitioner's counsel 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, which read as follows:

"5. That thereafter petitioner Sunny who was confined in District Jail Sirsa in another case was taken arrested into custody after getting his production warrant issued from the Ld. Trial Court of that case and the petitioner was arrested by the police on 08.08.2024 and was interrogated and during the interrogation he with his free will and without any influence, fear or greed made his disclosure statement dated 08.08.2024, which is as under:-

"During night of 29.03.2024, I and my friends Suraj S/o Punjab Singh R/o Gaushala Mohalla, Sirsa, Mohit S/o Bansi Lal R/o Rania Gate Sirsa, Vinod @ Darling S/o Dharampal R/o Ther Mohalla Sirsa and Gaurav R/o Khairpur Sirsa conspired with each other and were coming from Railway Phatak to Bal Bhawan. Gaurav was armed with Kappa. We were not having money from party and to consume intoxication. We all stood on Road near Old Court at Bal Bhawan Road with the intention that some cart hawker will come there and then they will snatch money from him and will make party and after some time, one Ice Cream hawker came from the side of Bal Bhawan with his Ice Cream cart and we all in collusion with each other stopped him on the road and asked him to give ice-cream and he started to put out ice cream, then we

attacked upon him and Cart hawker raised noise, then Gaurav caused a Kappa blow on his head and caused him injury and we all have caused injuries upon him with kicks and fists. On receiving injuries, cart hawker fell down at the spot and we did not find money from him, then we snatched mobile phone of cart hawker and due to fear we all fled away from the spot. Mobile phone make VIVO Company, which was snatched by us, was taken away by Vinod with him and he said us that I by selling mobile phone to someone will contribute among us. I by accompanying you can get the said place demarcated, where I in collusion and conspiracy with my friends have snatched mobile phone from Ice Cream cart hawker by causing him injuries near Old Court. Disclosure statement of accused has been written as narrated by him."

6. *That thereafter, as per the disclosure statement, place of occurrence was got demarcated by the petitioner/accused Sunny and demarcation memo was prepared which was signed by the accused as well as witnesses. From the perusal of aforesaid disclosure statement of the petitioner, the petitioner has duly admitted his role and involvement in commission of crime of the present case. Disclosure statement was signed by the petitioner as well as witnesses statement was signed by the petitioner as well as witnesses. Copy of disclosure statement of the petitioner is attached herewith for kind perusal of the Hon'ble High Court as Annexure R-1."*

7. 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 6 of the bail petition and order dated 05.02.2025, the petitioner has been in custody since 08.08.2024 and he is in custody from the last more than 1 year and 03 months.

9. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? —Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? —Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.² Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar

¹ Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

²Supreme Court of India in State of Kerala v. Raneef, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

facts and circumstances of the case.³ Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.⁴ When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.⁵

10. Given the above, 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.

11. 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.

12. Given the 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 or duty Magistrate, with or without sureties, with a maximum bond amount not to exceed INR 10,000.

13. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 10,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the “Chief Judicial Magistrate” of the concerned Sessions Division; or a fixed deposit made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.

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)	

³ Supreme Court of India in *Siddharam Satlingappa Mhetre v. State of Maharashtra*, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

⁴ Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

⁵ Supreme Court of India in *Sanjay Chandra v. CBI*, [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

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 (CrL.) 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. It is clarified that this bail order shall not be considered as a blanket bail order in any other matter and is only limited to granting bail in the FIR mentioned above.

25. In Amit Rana v. State of Haryana, CRM-18469-2025 [Decided on 05.08.2025], in CRA-D-123-2020], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that "To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished."

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

(ANOOP CHITKARA)
JUDGE

31.10.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.