

PARAMJIT SINGH @ PAMMA...PETITIONER

VERSUS

STATE OF PUNJAB...RESPONDENT

CORAM: HON’BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. APS Deol, Sr. Advocate with
Mr. Himmat Singh Deol, Advocate for the petitioner.

Mr. Akshay Kumar, Asst. AG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
31	21.05.1991	Nurpur Bedi	302/307/34 IPC and Sections 25 of Arms Act and Section 5 of TDA (P) 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. In paragraph 7 of the bail petition and reply, the petitioner has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

"xxx xxx xxx xxx

2. That in compliance thereto, it is respectfully submitted that the factual matrix pertaining to present case is that,21.05.1991 Inspector Jaspal Singh of CIA Staff Rupnagar received secret information that terrorist namely Sohan Singh @ Fauji resident of village Samirowal, along with Jagdish Singh @ Deesha resident of village Bhaini and Petitioner-Paramjit Singh @ Pamma were present along with other terrorist at the Dera (Farmhouse) of Jagdish Singh @ Deesha in the area of village Bhaini Police SNurpur Bedi, and they were in possession of arme and ammunitions. It is further submitted that on receipt of aforementioned information Inspector Jaspal Singh along with police party consisting of SI Balwant Singh, HC Balkar Singh, Constable Nirmal Singh, Constable Manjit Singh, Constable Pirthi Pal Singh, Constable Gian Chand, Constable Jagir Singh, and Constable Hans Raj reached at Nurpur Bedi in Gypsi bearing No.PB-11-1162 and Jeep bearing No.PBR-5281 driven by drivers Bhagwan Dass and Bhupinder Singh. On reaching at Nurpur Bedi, the police party headed by ASI Pritam

Singh / SHO along with ASI Sohan Lal, ASI Harnek Singh, HC Satnam Singh, HC Yashpal, Constable Bhupinder Singh, Constable Roop Lal, Constable Ram Sarup, Driver Tilak Raj, and Constable Amar Nath met the police party of Inspector Jaspal Singh in Gypsy bearing No.PB-12-5808 driven by Constable Pawan Kumar.

3. It is further submitted that both the police parties proceeded to village Bhaini to the Dera (Farmhouse) of Jagdish Singh @ Deesha and on the way the four sections of BSF headed by DSP Sanjay Pant also joined the police party and all the police officials and BSF personnel reached at the Dera of Jagdish Singh @ Deesha and had taken their positions and surrounded the Dera. It was about 08:30 PM, then HC Yashpal who was in police party of ASI Pritam Singh, gave torch light in the Dera and abruptly, firing was started from the Dera with automatic rifles and Inspector Jaspal Singh also ordered the police parties positioned at different locations in order to give covering fire and thereafter firing from both side kept on going and during firing the senior officials were informed through walkie-talkie and during firing the shanties in ere the Dera caught fire and burnt and when firing stopped from both sides then the Dera and the surrounding area was searched and it was found that from the firing of terrorists, HC Yashpal got bullet injuries in his chest and he died at the spot, whereas, ASI Pritam Singh got severely injured with bullet injuries and he was rushed to the hospital. It is further submitted that from the search in the Dera one dead body of an unidentified person was found and he had a 32 bore pistol in his right hand containing six empties and 05 live cartridges of .32 bore, from the pocket of his shirt worn by him, one magazine of AK47 containing 05 live cartridges of AK47 and 24 empties of AK47 were recovered from the nearby the body of an unidentified person.

4. That is further submitted that aforementioned arms and ammunition was taken into police possession by preparing separate parcels and the sketch of the recovered pistol was prepared. It is further submitted that the companions of deceased unidentified person fled away from the spot under the garb of darkness and since Sohan Singh @ Fauji terrorist resident of Samirowal along with Petitioner-Paramjit Singh @ Pamma along with his unknown companions attacked upon the police party and killed HC Yashpal and attempted to kill 'ASI Pritam Singh and had carried out deadly attack upon the police party, therefore, FIR No.31 dated 21.05.1991, under Section 302, 307, 34 IPC and 05 TDA(P) Act and 25 Arms Act, 1959 was lodged at Police Station Nurpur Bedi, on the basis of written information sent by Inspector Jaspal Singh.

5. It is further submitted that during investigation on 01.06.1991, it was established that Sohan Singh @ Fauji son of Jeet Singh, resident of Samirowal, Amir Singh @ Mira son of Hardial Singh, resident of village

Dabar, District Karnal (Hr.), Rattan Singh @ DC son of Balram Singh resident of Sawoch, District Karnal (Hr.), Petitioner-Paramjit Singh @ Pamma and his brother Jagdish Singh @ Deesha were involved in the firing upon the police party. It further submitted that during investigation of the case it was revealed that during different police encounters, Sohan Singh @ Fauji, Amir Singh @ Mira and Jagdish Singh @ Deesha were killed by the securities forces, however, Petitioner-Paramjit Singh @ Pamma and Rattan Singh @ DC kept on evading the arrests and they remained at large.

6. It is further submitted that proceedings under Section 82 of Cr.P.C. initiated against the Petitioner-Paramjit Singh @ Pamma and proclamation as required under law was carried out and after due execution of the same, Petitioner-Paramjit Singh @ Pamma was declared as Proclaimed Offender vide order dated 17.08.1992, by the Ld. Illaqa Magistrate, however, the same was set aside by this Hon'ble Court vide its order dated 13.09.2022.

7. It is further submitted that the Petitioner-Paramjit Singh @ Pamma has filed CRM-M-No.46915 of 2022, before this Hon'ble Court seeking pre-arrest bail in the present case, however, the same was dismissed by this Hon'ble Court vide its order dated 29.07.2024 and Petitioner-Paramjit Singh @ Pamma was directed to surrendered before the Ld. Trial Court and on 07.08.2024, Petitioner-Paramjit Singh @ Pamma surrendered before the Ld. Trial Court and on same day he was sent to judicial custody and since then he is in Judicial Custody.

8. That it is further submitted that supplementary final report in the present case against the Petitioner-Paramjit Singh @ Pamma was presented under Section 302, 307, 34 IPC read with Section 05 TDA (P) Act, and 25 Arms Act, 1959, before the Ld. Trial Court and on 07.11.2024, Charges against the petitioner-Paramjit Singh @Pamma were framed by the Ld. Trial Court and trial of the case is now pending before the Ld. Trial Court for 05.12.2024, for evidence of the prosecution. It is further submitted that no prosecution witnesses has been examined so far before the Ld. Trial Court."

4. Counsel for the petitioner submits that the FIR is of the year 1991 and the prosecution witness is not coming forward and whatever evidence comes on record is sketchy. He further refers to para 6 of the bail petition, which reads as follows:

"xxx xxx xxx xxx

6. That the petitioner is not a terrorist as per the conclusion drawn in the concluding para of the report dated 29-07-1992, the petitioner and his brother Jagdish were not militants. They allowed militants to stay only under threat. Hence case registered against Paramjit Singh @ Pamma is false; It was further concluded that Jagdish (brother of the petitioner since deceased) was captured during raid brutally tortured and killed by the police. It was further concluded that in all probability the family members of Jagdish namely his mother, wife, daughter and infant son stand eliminated."

5. Counsel for the petitioner prays for bail by imposing any stringent conditions including fire arms, if any. In case, he repeats the offence or commit any offence where the sentence is more than 07 years, he would have no objection, if State files an application for cancellation of his bail. He further undertakes to attend trial on each and every date, he shall not seek any adjournment and he shall not delay the trial. He further contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

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:

"A. ROLE OF THE PETITIONER:

9. It is respectfully submitted that on 21.05.1991, the Petitioner- Paramjit Singh @ Pamma and his co-accused (since deceased) have attacked upon the police party with automatic rifles and during firing HC Yashpal from the police party was killed and ASI Pritam Singh the then SHO Police Station Nurpur Bedi, received severe injuries. It is further submitted that after the occurrence Petitioner-Paramjit Singh @ Pamma along with his co- accused fled away from the spot and remained at large till 2022.

B. THE EVIDENCE AGAINST THE PETITIONER

It is respectfully submitted that since the incident is of 32 years old and many eye-witnesses / victims have already died and they could not be examined during further investigation of the case. It is further submitted that no recovery has been effected from the Petitioner-Paramjit Singh @ Pamma during further investigation. It is further submitted that some of the 'witnesses of the occurrence have been alive and they have been cited as witness in the list of witnesses attached to the supplementary final report presented against the petition."

REASONING:

8. Perusal of para 9 (B) also reveals that because of efflux of time, a lot of eye-witnesses and victims had already expired and could not be examined. Furthermore, the recovery was effected from the petitioner. After dismissal of the interim bail, petitioner had surrendered and he is in custody. Considering the time gap, the matter pertaining to the year 1991, the witnesses and the victims having expired and quality of evidence available against the petitioner, coupled with petitioner's custody and his conduct of voluntarily surrendering and on the peculiar facts and circumstances including the version of the petitioner, it is not a case for custodial interrogation. 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.

9. Custody certificate dated 30.04.2025, the petitioner's total custody in this FIR is 08 months and 23 days.

10. 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.

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 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.

13. 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)	

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

15. 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.

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.

19.05.2025
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(ANOOP CHITKARA)
JUDGE

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