

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55023-2024
Reserved on: 09.01.2025
Pronounced on: 24.01.2025

Surinder Pal Singh @ Shindi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. H.S. Thiara, Advocate
for the petitioner.

Mr. Jasjit Singh, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
96	09.09.2024	Division No.4, District Jalandhar	109, 351(2), 324, 3(5), 61(2) of BNS and 25, 27 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. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:-

“4. That succinctly, the factual matrix of the matter is that FIR (supra) was registered on the statement of Complainant Gurmohan Singh, who stated to the police on 09.09.2024 that he is an Advocate. He was attorney of his friend Amarpreet Singh Aulakh, who had a property dispute with Balraj Pal Dosanjh and others. Complainant was pursuing said litigation. On 19.08.2024 at about 09:27 am, he received threats on his whatsapp number from no.001-437-900-xxxx of Manni Dhillon that the above said property is of his sister Balraj Pal Dosanjh and her children and that complainant would not pursue said case or he had to face dire consequences as said property had been purchased by Judicial and Revenue Officers and that the accused party would win that case easily with the help of said officers.

It is further stated by the complainant that he moved complaint to the police on 19.08.2024 in this regard. Complainant issued legal notice to Rajesh Verma for not selling the disputed property. Latter told complainant that said property had been purchased by Retired Sessions Judge, Kishore Kumar and his brother Retired Tehsildar Manohar Lal. Complainant also came to know that said threat call was made by Danny and Nishi under the influence of said officers.

It is further stated by the complainant that on 08.09.2024 at about 08:20 pm his family members were present in the house. His wife Sunita heard noise of cartridges shots outside her house. She went out and found traces of cartridges on the main gate. She made a call to complainant. Latter reached home and on checking CCTV footage found that one unidentified person was firing at the gate of his house and the other person was making video of said incident. After some time, complainant received whatsapp call on his mobile from no.001647-716-xxxx of Jay Canada Mamee (on truecaller) asking to withdraw the case of Amarpreet Singh or they would kill him in his chamber on 10.09.2024. On these allegations, FIR was lodged.”

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

“Role of the petitioner:

20. That present petitioner is the supplier of arms and ammunition, which forming the subject matter of the incident/case, otherwise no such incident would have been happened.

Evidence against the petitioner:

21. That during interrogation of accused Dhruv and Pawan @ Karan, the name of the present petitioner revealed on 12.09.2024. On 12.09.2024, the co-accused Dhruv and Pawan Karan disclosed that they required a weapon regarding which he told to accused Satvir Singh @ Sabi and then accused Satvir Singh Sabi handed over a Desi Katta pistol and 02 live cartridges through his friend Surinder Pal Singh @ Shindi (present petitioner) and at that time he came along with another unidentified young person at Capitol Hospital, Jalandhar.

On 14.09.2024, accused Dhruv again confessed during police remand that his friend namely Goppa who currently lives abroad Canada, gave him one pistol, one desi katta and 03 cartridges before going abroad. Few days ago, co-accused Satvir Singh @ Sabi demanded desi katta, on which he handed over the same at Alaska Chowk, Jalandhar. However, he after receiving call from Goppa from

Canada that he has to shot fire at the house of Advocate Gurmohan Singh. So, he again demanded back his desi katta from Satvir Singh Sabi, who told that desi katta is in possession of Surinder Pal Shindi (present petitioner). On this he contacted Surinder Pal @ Shindi (present petitioner) and who said that his friend namely Damanpreet Singh resident of Kabulpur, Jalandhar and Paramvir @ Pamma resident of village Mubarakpur Shiekhe, Jalandhar would hand over the same. Thereafter, Damanpreet Singh and Paramvir Singh gave desi katta at Capitol Hospital, Jalandhar.”

7. The evidence collected against the petitioner is in the shape of disclosure statement. The police is at liberty to collect other evidence like money transactions and mobile conversation but for the purpose of bail, the evidence is not sufficient.
8. 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. Per paragraph 4 of the bail petition, the petitioner has been in custody since 12.09.2024. Per the custody certificate dated 08.01.2025, the petitioner's total custody in this FIR is 03 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. 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.
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. This order shall come into force from the time it is uploaded on this Court's official webpage.
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 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.

18. 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.”

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 be at liberty to cancel this bail.

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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

24.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.