

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-55332-2024  
Reserved on: 09.01.2025  
Pronounced on: 22.01.2025

Harvinder Singh @ Pamma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mewa Singh, Advocate  
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station     | Sections                                     |
|---------|------------|--------------------|----------------------------------------------|
| 37      | 07.03.2023 | Sri Anandpur Sahib | 302, 34 IPC (Section 323 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. In paragraph 18 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:-

“2. That in compliance thereto, it is respectfully submitted that the factual matrix pertaining to present case is that, on 06.03.2023, the investigating officer-SHO Police Station Sri Anandpur Sahib, along with the police party was on patrolling duty in connection with Holla Mohalla festival at Sri Anandpur Sahib, in a government vehicle bearing No.PB-12-M-6620, and at about 10:30 PM, he received information that an altercation had taken place near the reception gate in the area of village Badhal and one person had received an injury. It is further submitted that on receipt of the aforementioned information, investigating officer-SHO Police Station Sri Anandpur Sahib, reached the spot, where a large number of devotees were present and a person in the robe of a Nihang, was lying injured on the road. It is further submitted that Gurdarshan Singh son of Balbir Singh, resident of village Soita, District SBS Nagar, and Ranjit Singh son of Manga Singh resident

*of Bhagat Singh Nagar, Khanna, who were found at the spot, were known to the injured and they disclosed the identity of the injured person lying on the road, as Pardeep Singh @ Prince. It is further submitted that injured Pardeep Singh @ Prince was rushed to Civil Hospital Sri Anandpur Sahib, where he was declared dead, and thereafter the dead body was shifted to the mortuary of Civil Hospital, Rupnagar.”*

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. Counsel for the petitioner refers to the following paragraphs of the petition:-

*“5. That after registration of case, investigation was conducted and present petitioner was arrested on 20.03.2023. In addition to petitioner, three other persons namely Satveer Singh @ Laddi, Jatinder Singh @ Jimmy and Narinder Pal Singh @ Nindu have also been named and were arrested in the case.*

*6. That out of the above other three co-accused, to the knowledge of petitioner, accused Satveer Singh @ Laddi, accused Jatinder Singh @ Jimmy are still in judicial custody. However, Narinder Pal Singh @ Nindu has been admitted to regular bail vide order dated 30.08.2024 (Annexure P-3) passed by the Hon'ble High Court in CRM-M-10181-2014.*

*7. That the petitioner is in custody since 20.03.2023. Charge was framed in the trial on 29.01.2024 (Annexure P-4) passed by the L'd Sessions Judge, Rupnagar for commission of offences under Section 302 IPC read with Section 34 IPC and Section 323 IPC read with Section 34 IPC against all the four accused named in the case. By now, prosecution could examine only four witnesses as mentioned in the Annexures P-5 to P-8. Even out of the said four witnesses, cross examination of PW- 3 Dr. Amandeep Kaur could not be completed. Other eye- witnesses still remain to be examined. However, one of the main material eye-witnesses PW-2 Lovepreet Singh has been examined and his testimony is not much reliable.*

*8. That there is no likelihood of the conclusion of trial in near future which may still take years. Frequent summons of remaining un-examined prosecution witnesses as being sent by the L'd Trial Court could not be served. As per reports as received upon various summons of PW Gurdarshan Singh son of Balbir Singh R/o village Sohita, PS Rahon, District SBS Nagar, Punjab bear frequent reports that the said witness has gone to Canada and none of his family members lives in the village. Summons issued to other witnesses bear reports, stating one reason or the other for non-service of the said summons and witnesses. Copy of the summon as a annexure P-9.*

*9. That no credible and reliable evidence could be collected by the prosecution during investigation against the petitioner.*

10. That the version of the so-called eye witnesses namely Ranjit Singh son of Manga Singh (Annexure P-10), Gurdarshan Singh son of Balbir Singh (Annexure P-11) and Lovepreet Singh son of Bikramjit Singh (Annexure P-12), as appearing in their statements recorded under Section 161 Cr.PC is quite contradictory to the videographic data annexed by the prosecution with the challan. And also the oral version of facts as stated by the said three witnesses during investigation is also self contradictory to each other. None of the said three persons witnessed the incident in person. Hence, the said oral depositions u/s 161 Cr.PC are not reliable.

11. That from the peculiar facts of the case it is quite evident that due to the popular annual Holla Mohalla event, a well known Sikhs' festival on the day of incident, there was a huge gathering of thousands of people at the place and around the place of incident. The circumstances of the case as appearing in the prosecution videos clearly show and suggest that the public men in big numbers also took part actively in the alleged assault.

12. That the videographic evidence annexed by prosecution with the challan is not reliable evidence because admittedly it was taken from certain viral videos in the media. The prosecution willfully withheld the true and fullest version of the so-called videographic data, from the court. The videos do not contain the fullest material facts, view and video recordings of all facts and events preceding before and succeeding to the alleged incident. Hence, the videographic evidence is wholly unreliable under law and is tempered one.

13. That from the contents of the challan and the alleged allegations as mentioned therein, as per own version of prosecution as appearing in the stated investigation, the Investigating Officer has opined that it was the NIHANG SINGH PARDEEP SINGH @ PRINCE (now deceased) who all of a sudden and of his own assaulted the co-accused Satveer Singh @ Laddi with his big sword and clearly provoked the petitioner. It is not the case of IO that the said Nihang Singh deceased was officially deputed by any recognized Sikh Institution or was appointed and authorized to discipline the public, by the concerned Gurudwara Parbandhak Committee where the Holla Mohalla was being celebrated. It is also the admission of IO in the challan that four fingers of right half hand with right hand itself of co-accused Satveer Singh @ Laddi were cut down by the deceased Nihang Pardeep Singh @Prince. It is also the admission of IO in the challan that deceased Nihang Pardeep Singh @ Prince went on assaulting co-accused Satveer Singh @ Laddi when the later had fallen down on the ground. It is also the observation of the IO in the challan that no past enmity of both deceased and co-accused Satveer Singh @ Laddi was found during investigation. It is also specific observation of IO as stated in the challan that the quarrel happened between deceased and co-accused Satveer Singh @ Laddi, all of a sudden when the deceased disciplined and directed the co-accused Satveer Singh @ Laddi to stop alleged ugly songs on his Swaraj Tractor.”

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

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

*“6. That it was further submitted that when the woofers of the tractor, driven by Satbir Singh @ Ladi were damaged, Satbir Singh Ladi and deceased-Pardeep Singh Prince started arguing with each other and their arguments turned violent and they both started causing injuries to each other with swords. It is further submitted that during this fight the blow of the sword of Pardeep Singh @ Prince landed on the left wrist of accused-Satvir Singh @ Ladi and during this time remaining accused including Petitioner-Harwinder Singh @ Pamma started giving fist and leg blows to Pardeep Singh @ Prince, to save Satbir Singh @ Ladi, however, during this scuffle, accused-Satbir Singh @ Ladi fell on the road and deceased-Pardeep Singh Prince started giving fist blows to him while Satbir Singh Ladi was lying on the road and in the meantime accused-Satbir Singh @ Ladi took small sword carried by the deceased- Pardeep Singh @ Prince and stabbed the same at the right side of the chest of the deceased-Pardeep Kumar @ Prince which turned out to be fatal to deceased-Pardeep Singh @ Prince and he collapsed at the spot.”*

8. A perusal of the status report reveals that petitioner had given fist and leg blows to Pardeep Singh @ Prince save Satbir Singh @ Ladi, however it was Satbir Singh @ Ladi who took out sword carried by Pardeep Singh @ Prince. Thus, fatal blow is not attributed to the petitioner and there is no reason to deny him bail.

9. 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.

10. Per paragraph 7 of the bail petition, the petitioner has been in custody since 20.03.2023.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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)                                                                                                             |  |

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

17. 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.

18. 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.

19. 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.

20. 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."

21. *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.*

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

23. 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.

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

(ANOOP CHITKARA)  
JUDGE

22.01.2025  
Jyoti Sharma

Whether speaking/reasoned: Yes  
Whether reportable: No.