

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-55244-2024  
Reserved on: 09.01.2025  
Pronounced on: 24.01.2025

Mohit @ Tinku ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Puja Chopra, Advocate  
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

Mr. Sahil Chaudhary, Advocate  
for the complainant.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                             | Sections                                                     |
|---------|------------|--------------------------------------------|--------------------------------------------------------------|
| 0785    | 09.11.2023 | Sadar Thanesar,<br>District<br>Kurukshetra | 307, 387, 506, 120-B, 379<br>IPC and 25-54-59 of Arms<br>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 12 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:-

*“3. That the instant FIR came into being on the basis of complaint made by complainant namely Satinder Pal Singh son of Shri Sukhjinder Singh, resident of House No.555, Sector-3, Kuruksehtra stating therein that he is running his office under the name and style of Vertex Overseas, wherein he deals in student Visa. On 15.09.2023, he had received threatening call from abroad mobile No. 15593515988 on his mobile No. 8930000555 and the caller had demanded the extortion money of Rs. 2.00 crores from him and to kill him. However, at that time, he did not take the said seriously. The complainant further stated that today i.e. on 09.11.2023, at about 3.15 p.m., when he was standing in the balcony of his house,*

*two youngsters came on a motorcycle and on seeing him standing there, the pillion rider on the said motorcycle fired gunshot aiming at him with an Intention to kill him. Out of fear, he bowed down and the bullet hit the window glass of bathroom of his house. The complainant further stated that the motorcycle of assailants was of black colour having no number plate. The complainant further stated that in the meantime, his father namely Sukhjinder Singh received phone call from abroad mobile Nos. 49155510501781 and 15596805914 on his mobile No.9992540555 and the caller stated that the said gunshot was got fired by them. The complainant raised the suspicion that the above said offence has been committed by Anmol Bishnoi and Aashu @ Bhanu, resident of village Shambhli, District Karnal He further stated that both the said boys had fled away from the spot on their motorcycle, whom he can identify, if brought before him. With these allegations, the complainant sought for legal action against the culprits. On receipt of above information, instant FIR was registered and investigation was set into motion.*

*3. That during investigation, place of occurrence was inspected and its rough site plan was prepared. One empty cartridge, one fired bullet and broken glass pieces lying at the spot were lifted and taken into possession. The cement and dust from the wall of the house of complainant, where the bullet fired by the assailants had hit, was removed and taken into possession. The print outs of the Whats-app threats given to complainant and his father were obtained and taken into possession.*

*4. That during investigation, on 14.11.2023, complainant produced the pen- drive containing the CCTV footage of the CCTV camera installed at his house pertaining to place and time of occurrence dated 09.11.2023 along with the certificate under Section 65-B of Indian Evidence Act as well as five photographs of the assailants, which were curled out of the CCTV footage of the occurrence and the same were taken into possession. Thereafter, with the orders of Higher Officer, the investigation of present case was entrusted to Special Task Force, Unit, Karnal.”*

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 reply.

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

*“9. In pursuance of his disclosure statement, accused Mohit @ Tinku got recovered one mobile phone Realme, colour black bearing SIM No. 8901311613 and 9499498313 from his possession and same was taken into the police possession vide recovery memo and same was deposited with Mohrar Malkhana of police station.*

*15. That there is sufficient evidence against petitioner to*

*have committed the above mentioned offence. He had actively participated in the commission of above mentioned organized crime. He is the active member of the gang of known criminals, which is indulged in committing such kind of organized crimes, which is serious threat to the social system. The petitioner along with co-accused used to extort money from the innocent persons by putting them under fear of Lawrance Bishnoi gang and if the victim like complainant did not pay the demanded money, they fired gunshots at the complainant. As such, the offenders like petitioner and co-accused are creating fear in the society and extort money. Petitioner Mohit @Tinku is also the active member of said syndicate. He along with co-accused Yashwinder @ Yash was in the contact of co-accused Arvind @ Gilli, who is the son of his/ Yashwinder @ Yash real aunt (Bua) and said Arvind @ Gilli has contacted with the Laurance Bishnoi gang members namely Aashu @ Bhanu and Kala Rana etc. After getting the extortion money from the victims, the goons sent by Arvind @ Gilli used to hand over the extorted money in cash to Yashwinder @ Yash and petitioner co-accused Mohit @ Tinku and they (petitioner and Yashwinder @ Yash) used keep the said money with them and thereafter, they used to send/transfer such money to the persons/mobile numbers/bank accounts as provided to them by Arvind @ Gilli through Pay Bingo and Rupay Pay App by giving the cash amount to shopkeepers namely Prince Gupta and Tushar Singla by visiting their shops. After sending the money, they used to delete the voice message, text message, account number and name of persons to whom the money was transferred from their mobile phones, which were being sent to them by co-accused Arvind @ Gilli. **In the present case also, after committing the incident of firing at the complainant, when co-accused Aman @ Changa and Deepak @ Dippi etc. had gone to Hardiwar, on the asking of petitioner, co-accused Yashwinder @ Yash had sent Rs. 5,000/- on 11.11.2023 and Rs. 20,000/- on 13.11.2023 to Aman @ Changa etc. from his mobile No. 8901311613 in the bank accounts as provided by Arvind @ Gilli, which is also mentioned in the account statements of shopkeepers obtained during investigation.** All the above mentioned illegalities were being committed by petitioner and co-accused for lust of money by putting the victims under fear. All these facts have also been admitted by petitioner in his disclosure statement, pursuant to which, he got recovered the diary, in which he had made entries mentioning the details of extortion money received by him and regarding further sending of the same to co-accused As such, petitioner had actively participated in the commission of above mentioned offence. Charges in the present case are yet to be framed and if petitioner is enlarged on bail, he can tamper with the prosecution evidence by influencing and intimidating the prosecution witnesses and he can also hamper the trial by absconding from the process of law. Merely on the basis of longevity of incarceration, present petitioner is not entitled to the relief of bail as a matter of right. Thus, keeping in view the seriousness of offence, facts and circumstances of the case, role of petitioner in committing the crime and modus operandi of accused persons, petitioner is not entitled to the relief of bail as claimed for.”*

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 9 of the bail petition, the petitioner has been in custody since 01.12.2023. Per the custody certificate dated 14.11.2024, the petitioner's total custody in this FIR is 11 months and 13 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. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

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 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.

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.*

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

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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.