



CRM-M-55811-2024
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-55811-2024
Decided on: 06.03.2025

Amrik Singh Bamb and others ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Narinder Lucky, Advocate
for the petitioners.

Mr. Adesh Pal Singh, AAG, Punjab.

Ms. Amandeep Kaur, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
49	22.04.2021	Talwandi Chaudrian, District Kapurthala	307, 323, 506, 148, 149 IPC and 25 of Arms Act

1. The petitioner(s) apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking second anticipatory bail as first petition was dismissed for non-prosecution.

2. Vide order dated 03.12.2024, petition qua petitioner No.1/Amrik Singh Bamb was dismissed being infructuous, as petitioner No.1 was arrested in the present FIR. Therefore, the present order is qua petitioners No.2 & 3 namely Bhagwan Singh and Gamdoor Singh and in this order, word ‘petitioners’ shall refer only to Bhagwan Singh and Gamdoor Singh.

3. In paragraph 14 of the bail petition, the accused declare that they have no criminal antecedents. However, as per para 11 of the status report dated 16.12.2024, petitioner- Gamdoor Singh has the following criminal history:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1	283	31.12.2018	22/61/85 of NDPS Act	Talwandi Chaudrian, District Kapurthala



CRM-M-55811-2024

4. The facts and allegations are being taken from the status report dated 02.12.2024 filed by the State, which reads as follows:

“That the present FIR no. 49 dated 22.04.2021 U/s 307/323/506/148/149 IPC and U/s 25 Arms Act was -registered at PS Talwandi Chaudhrian, Kapurthala against Anark Singh Bamb, Bhagwan Singh, Gamdoor Singh, Sarmukh Singh, Inderpal Singh on the statement of complainant namely Manjinder Singh son of Mukhtiar Singh wherein he stated that he is an agriculturist. He is having his land in village Mand Chaudharywal and Mahiwal.

6. That the complainant has further stated that the gardawries of this land are in his name as well as in the name of his brother Gurwinder Singh, father Mukhtiar Singh and Government of India. His uncle Tarlok Singh alongwith his sons Balwinder Singh and Narinder Singh are having Girdawaries in their name of the land in village Mand Chaudharywal and Mahiwal.

7. That the complainant has further stated that they are in possession of this land for the last 40 years. Amrik Singh Bamb son of Kartar Singh and his sons Bhagwan Singh, Gamdoor Singh, Sarmukh Singh @ Sartaj are criminal type persons and they by bringing illegal weapons take possession of land of the villagers illegally. His uncle Santokh Singh is in possession of 9 killas of land in village Mand Chaudarywal for the last about 35/40 years and girdawari is also in his name. They are sowing crops over this land for the last about 20 years.

8. That the complainant has further stated that now they have sown wheat crop over this land and were to reap the same. However, on 20.04.2021 at about 7 P.M. when they went to the land alongwith tractor trolleys to reap the wheat crop, Amrik Singh Bamb son of Kartar Singh and his sons Bhagwan Singh, Gamdoor Singh, Sarmukh Singh @ Sartaj, Inderpal Singh son of Gurcharan Singh alongwith 7/8 unknown persons with illegal and licensed weapons came there in their fields and started firing on them. They also gave them threats that in case machine is not taken out from the fields, they will kill them.

9. That the complainant has further stated that all the accused fired 10/15 gun shots on them with intention to kill. The said fire shots hit in machine and they saved themselves by running here and there. Then they also fired gun shot in the air for their safety otherwise the accused would have killed them and cut wheat crops. On the basis of said statement made by the



CRM-M-55811-2024

complainant Manjinder Singh as such he requested to take legal action against them.”

5. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

6. The State’s counsel opposes bail and refers to the reply. Counsel for the complainant submits that he has compromised the matter with the petitioners and he has no objection if the petition is allowed.

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

“Role of petitioners

6. That the complainant stated that on dated 20.04.2021, at around 7:00 PM, when they brought the machine, tractor and trolleys to harvest the wheat, then Amrik Singh Bamb, petitioner no.1, Bhagwan Singh, petitioner no.2, Gamdhour Singh, petitioner no.3. Surmukh Singh @ Sartaj, R/O Chaudhrian Mand Chaudhrian, Inderpal Singh S/O Gurcharan Singh along with others 7-8 unknown persons R/O Dhunda, who along with illegal weapons came to the fields of the complainant and opened fire on them with the intention to kill them and threaten them that if, they don't take out the machine from the wheat field then, they would lay our dead bodies along with the wheat.

7. That the complainant further stated that they fired 10-15 gunshots towards them, with the intention to kill them and in order to save their lives hid behind the machine and 1/2 fire gunshots hit the machine as well. Then, in order to save themselves the complainant side fired shots in the air. Had the complainant side not shot in the air, the above-named persons would have killed them and also had taken their harvested crop along with them.

REASONING:

8. The incident relates to 2021 and the Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible.

9. Given the compromise and incident relates to 2021 and there is no injury to anybody, thus present petitioner is entitled for bail. Pre-trial incarceration should not be a

CRM-M-55811-2024
replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

10. Given the above, the penal provisions invoked 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 custodial interrogation or the 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 petitioners make a case for bail.

CONDITIONS:

12. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the petitioners 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 petitioners' complying with the following terms. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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.

15. The petitioners are directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as



CRM-M-55811-2024

required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

16. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners 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.

17. Given the background of allegations against the petitioners, it becomes paramount to protect 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 firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a 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 petitioners shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioners shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under 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. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above,



CRM-M-55811-2024

then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

20. It is clarified that if the petitioners violate 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 petitioners move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

21. **This bail is conditional, and the foundational condition is that if the petitioners indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the 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 Petitioners 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

06.03.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.