

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55766-2024
Reserved on: 18.03.2025
Pronounced on: 25.03.2025

Malkeet Singh @ Keetu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Rai, Senior Advocate with
Ms. Radhika Mehta, Advocate and
Mr. Ribhav Singla, Advocate, for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

Mr. Kamal Narula, Advocate,
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
122	15.07.2024	Sadar Ferozepur, Distt. Ferozepur	109/3(5) of BNS and Sections 25/27 of Arms Act, 1959.

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 4 (ix) of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the translated copy of FIR annexed with the petition as Annexure P-1, which reads as follows:

“Statement of Baljinder singh son of Bagicha Singh resident of Basti Kamboj Nagar, Near Habib Ke Roade, Near Gurudwara Akalgarh Ferozepur, aged about 36 years. Mobile No. 97815xxxx. Stated that I am resident of above said address. I am doing labour work. We have ownership land situated in Village Habib Ke. Today at about 9 AM, I alongwith my father Bagicha Singh son of Sunder Singh and my elder brother Balhar Singh and younger brother Sukhchain Singh have gone to our fields to see the paddy crop and to harvest the cattle fodder. The land of my uncle Assa Singh son of Sunder Singh as well as his poultry farm is adjacent to our land. About 4/5 days back, Malkit Singh @ Keetu son of

Aasa Singh and Aasa Singh son of Sunder Singh resident of Gali No.2, Near Akalgarh Gurudwara, Basti Kamboj Nagar. Ferozepur, had done spray on our all the cattle fodder crop. Consequently, the cattle fodder crop was dried and we have harvested the same from the top and put it at a side line of the land. On dated 14.07.2024, in the evening, Malkit Singh and Aasa Singh have set on fire our cattle fodder crop. However, we agitate before both father son duo. Both the father and son were standing near their poultry farm. When, we agitated, Malkit Singh @ Keetu and Aasa Singh became annoyed and started giving abuses to us. My brother Bagicha Singh tried to make understand Aasa Singh and his son Malkit Singh. In the meantime, Malkit Singh @ Keetu took out pistol from his waist and fired the same with intention to kill me. It was hit at my left leg. My brothers and father raised clamour marta marta. Aasa Singh said now you got to know how to agitate infront of us. If you will again make any complaint, then all of you will be shot dead. Upon seeing the gathering on the spot, the above said persons ran away with their respective weapons on their motorcycles. My brother Balhar Singh arranged vehicle and we reached in the Civil Hospital Ferozepur where doctor has referred me to Medical College. The doctors are giving treatment to me. The reason behind the grudge is that the above said accused had done spray on our cattle fodder and then set our cattle fodder crop on fire. When we agitated, the above said Malkit Singh son of Aasa Singh and Aasa Singh son of Sunder Singh in connivance with each other have fired a shot at me with intention to kill me. I have recorded my statement in the presence of my brother Balhar Singh with conscious mind, which has been read over and is correct. Action be taken. The pistol used is a licensed weapon/Arms of Aasa Singh.”

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 his family.
5. The State's counsel opposes bail and refers to the status report.
6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“Role of the petitioner

10. That so far as the role of petitioner is concerned, he was armed with pistol and has fired shot from his pistol towards complainant Baljinder Singh with an intention to kill and fire hit on his left leg. The shot pierced the leg of complainant through and in X-ray report fracture mid-shaft of

fibula is seen and doctor has declared the injury to be grievous in nature.

Evidence against the petitioner

11. That so far as the evidence against the petitioner is concerned, he was specifically named in the statement of complainant/injured, having armed with pistol and he fired shot towards the complainant, due to which he received injury. Moreover, the said pistol was also recovered by the Investigating Agency on the basis of confessional statement of petitioner.”

REASONING:

7. Petitioner was holding pistol and fired upon the leg of complainant/injured which shows that his intention was not to kill the victim nor he fired again, whether he wants to kill the victim or not, is a matter of trial.

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. As per paragraph 3 of the bail petition, the petitioner has been in custody since 16.07.2024. As per the same, the petitioner’s total custody in this FIR is more than 08 months. 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.

9. 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.

10. 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.

11. 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)	

12. This order is subject to the petitioner’s complying with the following terms.

13. 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.

14. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, victim 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 petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days of release and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner 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.

15. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

25.03.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.