

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57510-2024
Reserved on: 09.01.2025
Pronounced on: 27.01.2025

Jatinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

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

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
96	09.09.2024	Division No.4, District Police Commissionerate 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. As per para 10 of the petition, there is no criminal case pending against the petitioner, however, per paragraph 19 of the short reply, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	46	03.05.2014	323, 324, 148, 149, 307 IPC	Kartarpur
2.	14	26.01.2015	52-A of Prisons Act	Kotwali
3.	21	13.03.2017	323, 324, 341, 34 IPC	Dhilwan
4.	243	08.12.2018	302, 120-B, 34 IPC and 25/27-54-59 of Arms Act	Kartarpur Jalandhar Rural
5.	23	27.03.2017	399, 402, 307, 148, 149 IPC, 25-54-59 of Arms Act	Dhilwan
6.	06	07.01.2021	61-1-14 of Excise Act	Kartarpur Jalandhar Rural

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 96/2024 (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.001-437-900-4436 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 was 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. The 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 03:20 pm his family members were present in the house. His wife Suniti heard noise of gun-shots outside her house. She went out and found traces of cartridges on the main gate. She made a call to complainant. The complainant 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.001647-716-2994 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:

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

Evidence against the petitioner:

19. That during interrogation of accused Dhruv and Pawan @ Karan, the name of the present petitioner was revealed on 12.09.2024. On 12.09.2024, the co-accused Dhruv and Pawan @ Karan disclosed that 10 live cartridges were given to them by

Jatinder @ Bholu (present petitioner), who had come at Wadala Chowk on his car no. PB08-FK-6234, brand Baleno.

On 13.09.2024, the present petitioner also confessed to the police that few days ago he went to Wadala Chowk, Jalandhar on his car no. PB08-FK-6234 Brand Baleno, where he met Dhruv son of Amit and Pawan @ Karan son of Rinku, to whom he gave 10 live cartridge of 32 bore pistol and came back. He further confessed that besides this he has an illegal weapon/pistol .32 bore and 07 live cartridges, which he kept near cement store near his village. On 13.09.2024, the police party got recovered the aforementioned weapon along with ammunition on the dictation of present petitioner. Apart from this, he also got recovered his car Baleno bearing no. PB08-FK-6234 to the police.

On 14.09.2024, the present petitioner also made disclosure statement to the police that few days ago his friend Shubham @ Shubha resident of village Jaja near Tanda, Hoshiarpur currently residing in America provided them 17 live cartridges of .32 bore. Afterwards, Shubham @ Shubha called him and told that 02 boys will meet him on a motorcycle at Wadala Chowk, Jalandhar and he should give 10 live cartridges. On which he went to his car Baleno bearing no. PB08 FK 6234 and handed over 10 live cartridges to accused Dhruv and Pawan @ Karan. Jatinder Singh (Present petitioner) is involved in (1.) FIR No. 46 Dated 3.05.2014 US 323,324,148,149,307 IPC PS Kartarpur Distt Kapurthala (2.) FIR No. 14 Dated 26.01.2015 US 52A Prisons ACT PS Kotwali Distt.Kapurthala (3.) FIR No. 21 Dated 13.03.2017 US 323,324,341,34 IPC PS Dhilwan Distt. Kapurthala (4.) FIR No. 243 Dated 08.12.2018 US 302, 120B,34 IPC, 25/27-54-59 Arms ACT PS Kartarpur Jalandhar Rural (5.) FIR 23 Dated 27.03.2017 US 399,402,307,148,149 IPC, 25-54-59 Arms ACT PS Dhilwan Distt. Kapurthala (6.)FIR No. 06 Dated 07.01.2021 US 61-1-14 Ex.ACT PS Kartarpur jalandhar Rural.”

7. Counsel for the petitioner submits that the petitioner is not named in the FIR. Petitioner has no concern with the complainant and the persons who had allegedly fired shots were unidentified. Petitioner has been implicated on the basis of disclosure statement of co-accused and there is no evidence of petitioner’s involvement.

8. An analysis of the above arguments would lead to the following outcome. Although petitioner has massive criminal history which indict towards petitioner’s involvement and the evidence collected by the police might be sufficient to launch prosecution or to frame charges but is insufficient not to grant bail to the petitioner.

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 9 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 21 days.

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 petitioner is getting bail on the ground of quality of evidence, as such 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.

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

(ANOOP CHITKARA)
JUDGE

27.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.