

201 (4 cases)



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58287-2024
Date of Decision:15.02.2025

HARSH TANWARPetitioner

VERSUS

STATE OF PUNJABRespondent

CRM-M-3786-2025

SOURAV BENIWALPetitioner

VERSUS

STATE OF PUNJABRespondent

CRM-M-62944-2024

RAHUL DAGARPetitioner

VERSUS

STATE OF PUNJABRespondent

CRM-M-6429-2025

KAPIL ATTRIPetitioner

VERSUS

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Bijender Dhankar, Advocate with
Mr. Karandeep, Advocate
for the petitioner in CRM-M-58287-2024

Mr. Navdeep Singh, Advocate,
for the petitioner in CRM-M-3786-2025 &

CRM-M-6429-2025

Mr. Mohammad Arshad, Advocate,
for the petitioner in CRM-M-62944-2024

Mr. Sahil R. Bakshi, AAG, Punjab.

Ms. Parul Saini, Advocate
for the complainant.

KULDEEP TIWARI, J.(Oral)

1. Since all the four petitions are arising out of a common FIR, and a common relief of 'regular bail' has been sought therein, therefore, being amenable for common decision, same are taken up together.
2. Through the instant petitions, the petitioners crave for indulgence of this Court for them being enlarged on regular bail, in case FIR No.317, dated 12.09.2024, under Sections 115(2), 118(1), 109, 333, 303(2), 191(3), 190, 324(4) of the BNS 2023 and under Sections 25 and 27 of the Arms Act, 1959, registered at Police Station City Kharar, District SAS Nagar (Annexure P-1).
3. So far as the petitioner-Kapil Attri, is concerned, it is his second regular bail application, as the earlier one having been dismissed vide order dated 29.11.2024, passed in CRM-M-58896-2024.

ALLEGATIONS AGAINST THE PRESENT PETITIONERS

4. The prosecution story, as unfolds from the perusal of the FIR (*supra*), is that one Hardeep Malik got recorded recorded his statement, to the effect that one Yashveer Chaudhary, Kapil Atri, Ayush Saini alias Bouncer, Lucky Yadav, Anuj Chaudhary and other 4-5 unknow persons, attacked him and his associate Kushal, while entering into his flat, which resulted into suffering of 13 injuries by the complainant, and 09 injuries

by his associate-Kushal. Some of those injuries were, subsequently, declared grievous in nature, whereas, the injury suffered on the head of the complainant was declared as dangerous to life, inviting the mischief of Section 109 of BNS, 2023. For better appreciation, the relevant extract of the FIR reads as under:-

“.....Hardeep Malik son of Sandeep Malik resident of Ugra Khedi PS Chandlibagh District Panipat Haryana, presently residing at Flat no. 16C Arcadia Park East Kharar PS City Kharar aged about 20 years M. No. 94664-85289, stated that I am resident of the above mentioned address and studying Engineering in Chandigarh University Gharuan since 2 years. Along with me, my friend Kushal son of Naresh Kumar resident of Village Badoli, Panipat, Haryana is also studying. We are residing at our friend Prince's Flat no. 16C since 2-3 days. Today in the morning on 12.9.2024 at about 5.00 am, me and my friend were sleeping at our flat, some persons vehemently knocked our door and we got afraid and did not open the door, then mentioned persons broke open our flat's main door and forcefully 10-12 persons entered inside. Among them I knew the persons namely 2 Yashveer Chaudhary, Kapil Atri Aayush Saini alais Bouncer, Lucky Yadav, Anuj Chaudhary Mamala and rest 4-5 persons are unknown. Among them Kapil Atri, Anuj Chaudhari were carrying Pistols in their hands and rest were carrying swords, hammers and sticks in their hands. After entering, they asked the location of person namely Master then we informed them that we do not know any person namely Master. On which, above mentioned persons attacked us with sticks and swords. Yashveer Chaudhary, with the intention of killing me, attacked me with sword on my head and above mentioned persons gave some blows to me and my friend Kushal with swords and sticks. Above mentioned persons started damaging the things kept at the house and took away Rs. 2 lakh and a gold chain from our flat. Then our friend Aryan took us to Civil Hospital Kharar for treatment, where we are under treatment. Reason of dispute is that the above mentioned persons are having old dispute with some boys studying in our class. Due to which, out of rage, they

have beaten me and my friend Kushal. Appropriate legal action be initiated against above mentioned persons..... ”

5. The petitioners were arrested in the instant case in the month of September, 2024, and since then they are in custody.

SUBMISSIONS MADE BY LEARNED COUNSEL FOR THE PETITIONERS

6. The learned counsel for the petitioners collectively addressed arguments to the effect that there is no specific injury attributed to the present petitioners.

7. They further submits that the petitioners are students of college, and they have suffered sufficient incarceration of about 5 months, as on today.

8. They further submits that the *challan* in the FIR (*supra*), stands presented on dated 13.12.2024, and there is no progress in the trial, as till date charges have not been framed by the learned trial court concerned, and further in the final report, the prosecution has cited total 12 prosecution witnesses.

SUBMISSIONS MADE BY LEARNED STATE COUNSEL ASSISTED BY LEARNED COUNSEL FOR THE COMPLAINANT.

9. The submissions, as made by learned counsel for the petitioners, was vociferously opposed the learned State counsel assisted by learned counsel for the complainant.

10. Learned State counsel has filed separate replies dated 10.02.2025, by way of affidavits of Sh.Karan Singh Sandhu, DSP, Sub-Division, Kharar-I, District SAS Nagar, in CRM-M-3786-2025 and CRM-M-58287-2024, which are ordered to be taken on record.

11 He has also filed custody certificates *qua* the petitioners today in court, which are taken on record. A perusal of the custody certificates reveal that the petitioners have suffered incarceration of about 05 months, as on today.

12. He, on instructions, imparted to him by SI Ajitesh Kaushal, submits that after conclusion of the investigation, the final report under Section 173 Cr.P.C., has already been filed on dated 13.12.2024, whereas, charges, have yet not been framed by the learned trial court concerned. In the final report total 12 prosecution witnesses have been cited by the prosecution.

13. While referring from the reply (*supra*), to the manner of act, and nature, of the injury suffered by the complainant and his associate, he submits that the petitioners do not deserve the relief of regular bail.

14. He further informs this Court that two main accused-Ayush Saini and Lucky Yadav, as figured out in the FIR (*supra*), are running from clutches of law, and are still at large. He also submits that some of the petitioners were arrested from the State of Goa, therefore, in case they are granted the relief of bail, there is a likelihood of them, fleeing from the clutches of law.

ANALYSIS

15. This Court has considered the rival submissions, as made by the learned counsel for the parties concerned, and has gone through the entire case file including the replies (*supra*).

16. What surfaced from the reply (*supra*), that, though there is no injury attributed to the present petitioners, however, they were alleged

to be a part of an unlawful assembly, wherethrough, injuries were caused to the complainant and his associate, with sword, *gandasa* and *kirpan*.

17. It further reflects that Hardeep Malik-complainant, has suffered about 13 injuries, out of which injury no.3, 4 and 11, were declared to be caused by a sharp edged weapon, whereas, 09 injuries including one by a sharp edged weapon, were suffered by his associate Kushal, which, were declared subsequently, dangerous to his life.

18. It also reflects that on account of injuries suffered by the complainant-Hardeep Malik, he had to undergo surgery, and furthermore, one iron rod was inserted in his arm through the said surgery.

19. Considering the fact that there is a specific allegation against the petitioner-Kapil Attri, in the FIR (*supra*), and he is not a student, as the other petitioners are, and, he is stated to have a pistol in his hand, for the purpose of causing fear, enabling the other co-accused to cause injuries, and even as per the custody certificate, he is stated to be involved in one other criminal case of a similar nature, this Court is not inclined to grant the asked for relief to the present petitioner at this stage. Consequently, the instant petition (CRM-M-6429-2025) *qua* **petitioner-Kapil Attri**, is hereby **dismissed**.

20. So far as other three petitioners, i.e Harsh Tanwar, Rahul Dagar and Sourav Beniwal, are concerned, this Court is of the view that their role in the instant FIR, is distinguishable from that of Kapil Attri, and the instant petition is amenable for being allowed *qua* them for the following reasons:-

- i) The aforesaid three petitioners were not specifically, named in the FIR (*supra*), and their name was figured out only during the course of investigation, on a disclosure statement suffered by a co-accused;
- ii) no recovery, whatsoever, has been effected from these petitioners;
- iii) they have suffered incarceration of about 05 months, as on today;
- vi) the final report under Section 173 Cr.P.C has already been filed way back on 13.12.2024, and there is no progress in the trial, as the charges have still not been framed, and there are total 12 prosecution witnesses as cited by the prosecution in the final report;
- v) no fruitful purpose would be served by keeping the petitioner behind the bars;
- (vi) trial is not likely to conclude anytime soon.

FINAL ORDER

21. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioners namely **Harsh Tanwar, Rahul Dagar and Sourav Beniwal**. Therefore, without commenting upon the merits and circumstances of the present case, the present petitions (**CRM-M-58287-2024, CRM-M-3786-2025 and CRM-M-62944-2024**) are **allowed**. The said petitioners are ordered to be released on bail on furnishing of their respective bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

22. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petitions.

23. However, it is clarified that if in future, the aforesaid petitioners are found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

24. All pending application(s), if any, also stand **disposed** of accordingly.

25. A photocopy of this order be placed on the file of the connected case.

February 15, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No