

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59463-2024
Reserved on: 07.01.2025
Pronounced on: 13.01. 2025

Raghbir Singh @ Bir

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurpreet S. Brar, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0082	22.10.2023	Tarsikka, District Amritsar (Rural)	379-B(2), 411 IPC read with Section 25 of the 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. Per paragraph 11 of the bail application and the reply dated 06.01.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Sections	Police Station
1	157	09.11.2023	307, 353, 186 IPC read with Section 25 of the Arms Act	Chattiwind, Amritsar (Rural)
2.	241	26.07.2023	307, 506, 34 IPC read with Sections 25 and 27 of the Arms Act	City Tarn Taran, District Tarn Taran
3.	84	22.10.2023	379-B (2) IPC read with Section 25 of the Arms Act	Tarsikka, Amritsar (Rural)

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the brief and relevant facts of the case are that the aforesaid FIR No. 82 dated 22.10.2023 was registered on the basis of a

statement of Harpreet Singh son of Narinder Singh, resident of village Pur, District Patiala, who had alleged therein that on 21.10.2023, at about 08:00 PM, he along with his friends Gurwinder Singh, Gursewak Singh, Paramjit Singh and Shivcharan Singh were going to their village after paying obeisance at Golden Temple, Amritsar on their Verna Car bearing registration No. PB11-DC-2370 and on 22.10.2023 at about 12:45 AM, when they reached near Gurwinder Motor Garage, Tangra, three youngsters threw the motorcycle in front of their car and one of them fired a gun-shot on the front side of their car and the gun-shot hit him at his right elbow. He further alleged that the other two youngsters started breaking the glass of driver side of the car and when he and his friends came outside the car, the aforesaid youngsters snatched their Verna car and fled away towards Jandiala side with his mobile (iphone) left in the car. He further alleged that he could identify the aforesaid unidentified persons, who had fired upon him if brought before him. The detailed facts mentioned in the aforesaid statement have been attached with the petition as Annexure P-I (FIR No. 82 dated 22.10.2023) which may kindly be read as part of present paragraph as same are not repeated here for the sake of brevity.”

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:

“Role of the present Petitioner

11. That the petitioner in active connivance and conspiracy with the co-accused Baljinder Singh alias Baljit Singh and Lovejit Singh alias Love had committed snatching of car on the intervening night of 21/22.10.2023 by the use of firearms from the complainant Harpreet Singh and his friends. The petitioner and Lovejit Singh alias Love were armed with pistols and they had fired shots at the complainant and his friends while the snatching of the aforesaid car.

Evidence Against the present Petitioner

12. That the prosecution evidence against the petitioner is in the shape of the statements of the complainant Harpreet Singh and his friends Gurwinder Singh, Gursewak Singh, Paramjit Singh, and Shivcharan Singh

recorded by the investigating officer under section 161 Cr.P.C. and the disclosure statements suffered by the present petitioner and co-accused with respect to their involvement in the commission of offences with connivance with each other.”

7. Per paragraph 5 of the bail petition, the petitioner has been in custody since 29.11.2023. Per the custody certificate dated 06.01.2025, the petitioner’s total custody in this FIR is 01 year, 01 month and 03 days.

8. Although there is sufficient *prima-facie* evidence connecting the petitioner with the alleged crime. However, considering the quality of evidence against the petitioner which is in the nature of disclosure statement, and the other factors peculiar to this case, there would be no justifiability 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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 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.

15. 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."

16. 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.

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

18. 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.

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

13.01, 2025

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Whether speaking/reasoned: Yes,

(ANOOP CHITKARA)

JUDGE

Whether reportable: No.