

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62373-2024
Reserved on: 03.09.2025
Pronounced on:25.09.2025

BALKAR SINGH ...PETITIONER

VERSUS

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Bajwa, Advocate for the petitioner.

Ms. Pooja Nayar Sharma, DAG, Punjab.

ANOOP CHITKARA, J.

DDR No.	Dated	Police Station	Sections
31	25.05.2024	Shalla, District Gurdaspur, Punjab	307/323/341/427 IPC and Section 27 of Arms Act
FIR No.34	25.05.2024	Shalla, District Gurdaspur, Punjab	323/341/427/148/149 IPC (offence under Section 307 IPC and 27 of Arms Act added later on)

1. The petitioner incarcerated in the DDR 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 petition and para 21 of the reply, the petitioner has no criminal antecedents.
3. The facts and allegations are being taken from the translated version of DDR and para No.12 to 14 of the reply filed by the State, which reads as follows:

“Stated that I am resident of above- mentioned address and I am working as a labourer. Presently, I am working with Kuldeep Singh son of Sarwan Singh resident of GohatPokhar. Yesterday on 24.05.2024, I alongwith Kuldeep Singh in his Bolero bearing temporary number were returning to the village from our land in Village Gazikot. When we reached at the bridge of Gazikot canal, it was around 7:30 am, when from the opposite side one car bearing No. PB06-BD-4198 mark Creta, which was being driven by one Sardar person, who hit his car into our car. At this, I and Kuldeep Singh came out of the car. After this above

said Sardar person, alighted from his car and started firing on us with his licenced pistol. In order to save our lives, I and Kuldeep Singh started running haphazardly. In the meantime, one pistol hit on him right thigh from behind as a result of which I fell down. As a result of my fault, I also received injuries on my both knees. Above sardar fired approximately four shots towards us. At this, I raised noise of maar-ditta, maar-ditta. After this, above said Sardar fled away from the spot. Then Kuldeep Singh son of Sarwan Singh resident of GohatPokhar arranged for a conveyance and got me admitted in Civil Hospital, Gurdaspur, where the doctor gave me first aid and also issued my MLR. I am under treatment in the hospital. Now I have come to know that the Sardar, who fired bullet on us, is named Balkar Singh son of Premjit Singh resident of Wada. Cause of dispute is that Kuldeep Singh son of Sarwan Singh resident of GohatPokhar had a land dispute on 21.05.2024. As a result of which, Balkar Singh hit into our car and also fired shots on us. I am the complainant legal action may be taken against them. Statement has been read, heard and it is correct.

12. That it humbly submitted that the MLR No. 9/MLR/SS/CHGSP/2024 dated 24.05.2025 of Abhishek, in which 4 injuries were mentioned. Injuries No. 1 & 2 were kept under observation and injuries No. 3 and 4 were simple. Injuries No. 1 & 2 for the want of ballistic expert opinion. Injury No. 3 & 4 were blunt.

13. That it is humbly submitted that as per the statement and above mentioned MLR of Abhishek, a cross case under section 323,341 and 427 of IPC was registered against the petitioner in case FIR No 34/2024 (Supra) vide GD No. 31 dated 25.05.2024 (Annexure P-3/T).

14. That it is humbly submitted that as per the opinion that "So kind of weapon used for injury No. 1 & 2 is firearm and simple in nature". Hence the offence under section 307-IPC and section 27 of Arms Act was added in this case vide GD No. 28 dated 18.10.2024."

4. The main case was registered based on the information given by the petitioner, and it is taken from the reply and read as follows

"5. That it is humbly submitted that the brief facts of this case are that the petitioner Balkar Singh son of Pramjit Singli resident of Wada Police Station Tibber was got recorded his statement to ASI Manjit Singh of Police Station Purana Shalla on 25.05.2024 that he has retired from BSF. He has cattle farm at home and he was going to Adda Ghazikot for supplying milk. Yesterday on 24.05.2024, as per routine he was going to supply milk on his white colored Creta Car bearing No PB06-BD-4198. When he reached at the bridge of Gazikot Canal, it was around 7:30 am one car came from the opposite side in which four

young men with muffled faces were sitting. He does not know them. They blocked passage of his car and hit their vehicle into his car. Thereafter one Dzire car came from behind from which Kuldip Singh son of Sarwan Singh, Sarwan Singh son of Makhan Singh residents of Gohat Pokhar Police Station Tibber, District Gurdaspur, Daljinder son of Jaspal, Sukhbir son of Kartar Singh residents of Wada Police Station Tibber District Gurdaspur alighted. They were carrying dangs in their hands. Immediately after reaching there, they damaged his car. In the meantime, Sarwan Singh caught hold of him from his hairs and threw him on the ground and snatched his mobile phone and purse and he (Sarwan Singh) also picked up his 32-bore revolver lying in the dashboard of his car. Thereafter they started giving him beatings with the dangs which they were carrying. He raised noise of maar ditta maar ditta. At this, above mentioned assailants fled away from the spot along with their respective weapons.

6. That it is humbly submitted that MLR No. 1055/RD/CHGSP/2024 dated 24.05.2025 of the petitioner, in which 4 injuries were mentioned. Injuries No. 1 & 2 was simple. Injuries No 3 & 4 was kept under observation. Injuries No. 1, 2, 3 were Blunt and weapon used to inflict injury No. 4 cannot be ascertained.

7. That it is humbly submitted that as per statement and MLR of the petitioner, a case FIR No.34 dated 25.05.2024 Under Section 323,341,427,148,149-IPC was registered against 1) Kuldeep Singh, 2) Sarwan Singh, 3) Sukhjinder Singh, 4) Sukhbir Singh and 5) four unknown persons at Police Station Purana Shalla.”

5. 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.

6. The petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

7. The State's counsel opposes bail and refers to para 17 to 20 of the reply, which read as follows:

“17. ROLE OF THE PETITIONER :- *The petitioner fired at the complainant and others in cross case with his licensed pistol.*

18. NAME OF THE COMPLAINANT: -

The petitioner Balkar Singh is complainant in main Case. Abhishek is complainant in Cross case.

19. NAME OF THE WEAPONS:- *Revolver 32 bore.*

20. NATURE OF INJURY: *Injury No. 1 & 2 is inflicted with firearm and simple in nature. Weapon used to inflict Injury No. 3 & 4 were blunt and simple in nature.”*

REASONING:

8. Admittedly, there are cross cases and the first case was registered based on the complaint made by the petitioner. The medical evidence also corroborates the injuries received by the petitioner at the hands of the complainants based on which main FIR was registered. Appraisal of the allegations and counter allegations makes it difficult at this stage to clearly establish that which party was aggressor and which party had exceeded their rights of self defence. In the entirety of facts and circumstances peculiar to this case, despite one of the sections being 307 IPC, it is not a case for further pretrial custody as injuries are simple in nature.

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 7 of the bail petition, the petitioner has been in custody since 18.10.2024. Per the custody certificate dated 23.07.2025, the petitioner's total custody in this FIR is as of now is more than 11 and a half months.

11. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹ In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.² Personal liberty is a very precious fundamental right

¹ Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

² Supreme Court of India in State of Kerala v. Raneef, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.³ Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.⁴ When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.⁵

12. Given the above, the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations and injury attributed to petitioner and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

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 the 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 or duty Magistrate, with or without sureties, with a maximum bond amount not to exceed INR 10,000.

15. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 10,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the "Chief Judicial Magistrate" of the concerned Sessions Division; or a fixed deposit made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.

16. 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	

³ Supreme Court of India in Siddharam Satlingappa Mhetre v. State of Maharashtra, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

⁴ Supreme Court of India in Babu Singh & ors v. State of UP, [E-SCR] P. 777, decided on 31.01.1978.

⁵ Supreme Court of India in Sanjay Chandra v. CBI , [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

	considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

17. This order is subject to the petitioner’s complying with the following terms.
18. 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.
19. 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 (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.
20. 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.
21. 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.”

22. It is clarified that if the petitioner violates 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 petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

23. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner’s behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

24. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State shall file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

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

26. In Amit Rana v. State of Haryana, CRM-18469-2025 [Decided on 05.08.2025], in CRA-D-123-2020], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that “To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished.”

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

(ANOOP CHITKARA)
JUDGE

25.09.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.