

CRM-M-63573-2024

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-63573-2024
Reserved on: 09.07.2025
Pronounced on: 31.07.2025

Gajraj @ Gujju

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mohd. Zeeshan Khan, Advocate
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

* * * *

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
193	20.05.2017	Tauru, District Nuh	307, 120-B, 34 IPC and 25, 54 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. Per paragraph 15 of the bail application and paragraph 10 of reply/status report, the petitioner has massive criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the brief facts of the present case are that on 20.05.2017 a complaint was submitted by the complainant Om Parkash wherein he alleged that on 17.05.2017, he had received a call from phone No 90012xxxxx, whereby the caller, who disclosed his name as Dayma. demanded ransom of Rs. 5 Lakhs. Regarding the same, he had got registered the FIR No. 184/17. On 20.05.2017, complainant along with his maternal uncle Vinod Garg was present in his medical store being run in the name of Jindal Medical, situated at Old Bus Stand, Tauru. At about 08.50 PM, two boys came there on motorcycle and fired two gunshots with an intention to kill him, which hit the glass of the shop. due to which complainant had a narrow escape. Various people gathered there and the assailants ran away. Prayer was made for taking legal action. Thereupon, the above mentioned FIR No. 193 dated 20.05.2017 u/s 307, 34 IPC and 25/54/59 Arms Act (Later on added Section 120-B IPC) registered at P.S. Sadar Tauru, Nuh.”

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 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.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

"4. That the investigation was conducted by SI Rajender Singh. During investigation, the site plan of the place of occurrence was prepared. Accused Irsad @Chillar, Mohan and Narender were arrested on 26.05.2017. Their police remand was obtained for three days. Accused Mohan got recovered the pistol used in the present crime. Accused Narender got recovered the motorcycle used in the present crime. Section 120-B IPC was added in the present case. They were sent to judicial custody. The challan against accused Irsad @Chillar, Mohan and Narender was submitted in the Ld. Court on 02.08.2017.

6. That the petitioner Gajraj @ Gajju was arrested on 11.05.2018 after his appearance in the Ld. Court upon production warrants. His disclosure statement was recorded. He was sent to judicial custody. Copy of disclosure statement of the petitioner is attached herewith as Annexure R-1 for kind perusal of this Hon'ble Court.

7. That the supplementary challan against the petitioner Gajraj @ Gajju and co-accused Anil was submitted in the Ld. Court on 14.09.2018. The charges were framed on 14.12.2018. Now, the trial is pending in the Court of Ld. ASJ, Nuh and is fixed for 12.05.2025 for prosecution evidence. There are total 24 PWs in the present case and 09 PWs have been examined and 01 PW has been given up by the prosecution.

8. That the role of the petitioner Gajraj @ Gajju in the present case is that the petitioner (who is also known as Dayma Dacoit) along with the other accused namely Anil, Irsad @ Chillar, Sukhbir @ Rajender, Mohan, had conspired to demand money from the complainant (who runs a medical shop) by creating the fear of 'Dayma Dacoit' and on non-receipt of money to fire gunshots at the medical store. In pursuance of the said conspiracy, the other accused had fired gunshots upon the complainant Om Parkash which had hit the glass of his shop. Thus, the petitioner is one of the main conspirator in the present case."

8. Perusal of the investigation conducted so far points out that the evidence against the petitioner is of disclosure statement. Undoubtedly, petitioner has a massive number of criminal cases against him running into 25 as of the reply, but before this Court can advert to the criminal history, it is essential to consider the evidence available and collected in the present case against the petitioner. Further, as per para 6 of the reply, the petitioner was arrested in the present case on 11.05.2018 on production warrants. However, because there are multiple cases pending against him, the custody is irrelevant. The primary factor on which this Court is considering to grant bail is that the petitioner's counsel has made a statement of no objection to any stringent condition which this Court may impose while granting bail and secondly, the quality of evidence collected so far. Hypothetically speaking, if the petitioner had no criminal history, it was not a case to reject the bail. Thus, simply because the petitioner has criminal history would not make a weak kind of evidence strong one by rendering corroboration of suspicion arising from the massive criminal antecedents. If this court does so, that would be against the tenets of criminal jurisprudence. This Court is more concerned to afford petitioner one chance to course correct, mend his ways and live like a decent human being. Further, the petitioner's counsel has assured that he would convey a message to his client about this part and further that he has instructions from the petitioner that he would reform and live like a decent human being (without conceding or admitting the present case).

9. It is a case where no one is injured, only gunshot was fired upon the shop of victim in order to extort money. 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 4 of the bail petition, the petitioner has been in custody since 11.05.2018. Per the custody certificate dated 07.02.2025, the petitioner's total custody in this FIR is 02 years, 03 months and 18 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. 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.

13. 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.

14. 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)	

15. This order is subject to the petitioner's complying with the following terms.

16. 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.

17. 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.

18. 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.

19. 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."

20. 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.

21. 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.

22. 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.

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

24. 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.

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

(ANOOP CHITKARA)
JUDGE

31.07.2025

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.