

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

CRM-M-63896-2024
Reserved on: 02.05.2025
Pronounced on: 19.05.2025

Rohit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sanjeev Majra, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
310	25.08.2024	Butana, District Karnal	115/118(1)/351(3)/3(5)/ 109(1)/117(2) of BNS

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. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply dated 30.01.2025 filed by the State, which reads as follows:

“2. That at the very outset it is submitted that a case bearing registered at FIR No.310 Dated 25.08.2024 Police Station Butana District Karnal under sections 115, 118(1), 351(3), 3(5), 109(1), 117 (2) of Bhartiya Nagrik Suraksha Sanhita on complaint of Navjot Singh @ Navi S/o Harjit Singh R/o H.No.24, W.No.2, Hospital Area, Nilokheri, Karnal against the present petitioner. and his co-accused namely Ravi @ Shooter, Harsh and Arjun in which he has alleged that:-
"I am resident of above mentioned address and after passing 10+2, I am preparing to go aboard. We are two sisters and one brother. I had fight with one boy namely Barar resident of Village Pujam several days ago and thereafter, we had became friends again. Then Rohit and Shooter residents of Village Pujam started threatening me that they would kill me. So we kept talking to each other and they started saying me that why do you talk to a Barar. On 24.08.2024 at

about 04:40 pm I was standing at Bus Stand Nolikheri. Meanwhile, Rohit and Shooter started beating me. Shooter inflicted many blows on his chest with awl (ice breaker) he was holding and Rohit inflicted blows with danda on my waist and arms. At time that Harsh resident of Daburthala and Arjun also slapped and punched me. When I shouted "killed me", the shopkeepers present there rescued me and while leaving they threatened me that today you have been saved if you get caught again they will kill me." On these allegations the above noted FIR was registered against the accused persons."

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 status report 27.04.2025 and reply dated 30.01.2025.

6. Counsel for the petitioner made the following arguments:

- i. He is in custody for 07 months;
- ii. his father has expired;
- iii. Injury is not attributed to him;
- iv. mother is suffering from various ailments; and
- v. both the brothers are behind the bars.

7. State counsel opposed the bail and has referred to para no.10 of the reply dated 30.01.2025, which reads as follows:

"10. That during the course of investigation one wooden stick was recovered from the present petitioner, whereas one Awl (Ice breaker) was recovered from the possession of his co-accused namely Ravi and the place of recovery was identified by the present petitioner. It is further submitted that the case property was handed over to the MHC of Police Station Butana, district Karnal."

8. An analysis of the pleadings would lead to the following outcome. The injuries attributed to the petitioner were with wooden stick on waist and arms and the injury with awl is attributed to co-accused, as such considering the fact that petitioner did not attribute main injury which was dangerous to life and the same was caused by co-accused, as such the case of the petitioner is entirely different from that of co-accused. Thus, in the entirety of facts and circumstances of the case coupled with custody, petitioner is entitled to bail.

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 3 of the bail petition, the petitioner has been in custody since 14.09.2024. Per the custody certificate dated 01.05.2025, the petitioner's total custody in this FIR is 07 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. The investigation indicates that the petitioner is not the main accused, so 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 (CrL.) 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. 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.

22. **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 have the liberty to 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

19.05.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.