

CRM-M-64438-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64438-2024
Reserved on: 16.01.2025
Pronounced on: 30.01.2025

Gurpreet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Paviterdeep Singh Bhinder, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
193	10.11.2024	Dirba, District Sangrur	125, 351, 3(5) of BNS 2023 (109 of BNS 2023 added later on) and 25/27 of Arms Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 27 of the bail petition, the accused declares that he has no criminal antecedents. However, as per para 9 of the reply, petitioner has one more case pending, which is as under:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1	66	31.03.2021	363, 366-A, 376 IPC and 4 of POCSO Act	City Samana

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

“That pursuant to the order, it is submitted that the brief facts of FIR No.193 dated 10.11.2024 under section 125,351,3(5) BNS 2023 (section 109 BNS added later on) and section 25,27 Arms Act P.S. Dirba are that, the present FIR was registered against un-known persons on the basis of statement of Karamjeet Singh @ Karma son of Shera Singh resident of Shadiheri, P.S. Dirba, District Sangrur, with the allegation that, On 09.11.2024, he (complainant) and his family, during night time, after having dinner, had slept and on 10.11.2024 at around 01:15 AM, he woke up for urination purpose and his younger brother Hardeep Singh also woke up and then they both came to the courtyard and he (complainant)

CRM-M-64438-2024

went towards the roof of his house (Kotha) and saw that one car was stopped in front of the main gate of his house. One un-known person came out from the conductor seat and one unknown person seen coming out from the back seat and the unknown driver of the car, after starting the car, was sitting inside the car. Then the person who had come out from the conductor seat, holding pistol/revolver in his hands, made two continuous fires towards main gate of his house and then they fled away from the spot with weapon alongwith said car. The incident was captured in the CCTV camera installed in his house. On discussing, he (complainant) and his family members came to know that on dated 09.11.2024, one unknown person, for the purpose of purchase of buffalo, had come to his brother Hardeep Singh in Car No. DL-4- CNB-7665 make Scorpio, to whom, his brother Hardeep Singh told that Karam Singh has no buffalo. After the death of his brother Major Singh, his wife Swarnjit Kaur, as per social custom, became his responsibility and from the loins of his brother Major Singh, Swarnjit Kaur has one daughter Rupinder Kaur and one son Jashanpreet Singh. His niece Rupinder Kaur, now-a- days, is residing in America, whose marriage has taken place with Navdeep Singh son of Randeep Singh resident of Arjan Walanear Adampur District Jalandhar. Randeep Singh (father of his son-in-law Navdeep Singh) has been making phone calls to him (complainant) and his relatives, with regard to money transaction. He (Randeep Singh) also blame us that due to Rupinder Kaur, a distance has come in the relations between him and his son Navdeep Singh, due to which he is residing separately from him (Randeep Singh). Action be taken against above said un-known persons”. On the basis of said statement of Karamjit Singh @ Karma, present FIR was registered against un-known 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 reply.

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

“4. That on 12.11.2024, Harmeet Singh above said made supplementary statement before the I.O. that on 09.11.2024, during the night, Hardeep Singh and his brother Karamjit Singh @ Karma came in the courtyard of their house and Karamjit Singh @ Karma went on the roof of the house and then Hardeep Singh looked from the hole of the main gate that one car

CRM-M-64438-2024

was found parked in front of the house and one person came out from the car and one another person was seen getting out of the car and the driver of the case was also sitting in the car. Then Hardeep Singh told to them that who are you, then the person who came out from the conductor seat and the another person who came out from the back seat of car, fire 1/1 round towards Hardeep Singh with the intention to kill him, but luckily, he escaped.

Harmeet Singh (son of chacha of complainant) resident of Shadiheri made supplementary statement before the I.O. that he made inquiry about the person, who came with Sandeep Singh and about the car and came to know that Gurpreet Singh @ Gaggu son of Sukhwinder Singh resident of Lalwa, P.S. Sadar Patran and Varinder Singh son of Gurnam Singh resident of Burd, P.S. Sadar Patran are the persons, who came with Sandeep Singh @ Soni in swift car bearing no. PB 72A 0556, made two straight fire towards the main gate with the intention to kill Hardeep Singh.

x x x x

10. ROLE OF THE PETITIONER GURPREET SINGH @GAGGU

The present FIR was registered against three unknown persons on the basis of statement of Karamjeet Singh @Karma. During investigation, Harmeet Singh (son of chacha of complainant) resident of Shadiheri made supplementary statement before the I.O. that he made inquiry about the person, who came with Sandeep Singh and came to know that Gurpreet Singh @ Gaggu (now petitioner) and Varinder Singh (co-accused) are the persons, who came with Sandeep Singh @Soni in swift car bearing no. PB 72A 0556, who made firing towards the main gate of complainant with the intention to kill Hardeep Singh (brother of complainant). On the basis of disclosure made by Harmeet Singh, present petitioner Gurpreet Singh was nominated as accused in this case. Accused/petitioner Gurpreet Singh @ Gaggu joined the investigation on 26.12.2024 in the light of order dated 19.12.2024 passed by this Hon'ble Court in the present petition. During interrogation he admitted this very facts that on 09.11.2024, at the time of firing upon the main gate of complainant, he was present with his co-accused and he also fired one shot towards the main gate of complainant with country made pistol, which was given to him by Sandeep Singh @ Soni. It was duly substantiated that accused Sandeep Singh @ Soni, Varinder Singh and Gurpreet Singh @ Gaggu (present petitioner) in connivance with each other made firing upon the complainant house with the intention to kill Hardeep Singh. So, a specific role is attributed to the petitioner in the commission of present offence.”

CRM-M-64438-2024

7. The initial statement that there was no allegation that firing was made on any person but as is apparent from para 4 of the reply mentioned above, supplementary statement was recorded after three days i.e. 12.11.2024, in which allegations were levelled that persons who had fired the shots, had fired at him but he had escaped. Thus there are material improvements over the initial version which would create slight dent and although the allegations are serious and offence is grave, but considering the deliberations that delay which lead to an improved version, it is not a case for denying anticipatory bail and on this ground alone, the petitioner is entitled to bail.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked 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 custodial interrogation or the pre-trial incarceration at this stage.

10. 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.

11. 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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. 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)	

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

CRM-M-64438-2024

case or dissuade them from disclosing such facts to the Police or the Court.

14. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. 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.

16. Given the background of allegations against the petitioner, it becomes paramount to protect 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 firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a 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 of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under 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.

17. 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

CRM-M-64438-2024

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.”

18. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

19. 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.

20. **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.**

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

22. 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.

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

(ANOOP CHITKARA)
JUDGE

30.01.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.