

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64-2025
Reserved on: 08.07.2025
Pronounced on: 29.07.2025

Shubham Saini ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Garvit Mittal, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
548	11.09.2024	Indri, District Karnal	111(3), 109(1) of BNS and Section 25(6), 29 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. As per paragraph 20 of the bail application and as per paragraph 19-c of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	533	06.09.2024	61, 109, 308(4) of BNS, Section 25(6) of Arms Act	Indri, District Karnal

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

*"1. That at the very outset it is submitted that a case bearing FIR No.548 Dated 11.09.2024 under Sections 25 (6)Arms Act, 1959, 109(1), 111(3) of BNS, 2023 registered at Police Station Indri District Karnal. The brief facts of the case are as under:
"On 11.09.2024 ASI Randeep Singh, No. 1037/KTI, ASI Balwan Singh No. 169/KNL, ASI Inderjeet Singh No. 855/KNL, Constable Nasib Singh No. 1755/KNL, Constable Rakesh Kumar No. 2228 SPT, Constable ED/Banit Kumar on official vehicle No. HR-26GV-6820, the driver of which is EASI Bahadur Singh No. 1212, Ambala along with his laptop, printer and 04 bullet proof jacket having been left from STF Unit, Karnal was present in Grain Market within the area of police station Indri, in connection to get lead to unknown accused persons involved in FIR No. 533 dated 06.09.2024 under sections 25(6)/54/59 of Arms Act Sections 109 (1), 111(3), 308 (4), 61(2) of BNSS, Police Station Indri, district Karnal when*

a special informer informed the said ASI that the assailants who committed the above crime are present with weapons on the canal bank passing parallel to the Karnal-Ladwa Road.

Out of which one youth is wearing black lower and black T-shirt and a short height youth is wearing a black lower and blue T-shirt is carrying a blue back pack. Based on above information a raiding party was assembled and a call was made on No.112 at 7:50 A.M. through ASI mobile No. 94662xxxx and a request was made to inform CIA Karnal and SHO Indri. Thereafter, I wore one bullet proof jacket and ASI Balwan, constable Naseeb, Rakesh also worn one same jacket. After this when the said ASI along with fellow colleagues reached near canal bridge on road going towards Jainpur along the embankment of Indri canal. The said ASI saw two young men of the above description, who were wearing the clothes mentioned and out of whom the short height youth was carrying a blue colour back pack. The said ASI along with his colleagues got down from the vehicle and moved towards those young men and informed them about himself as police and made an attempt to nab both the said accused persons, but both the men turned and ran towards north along the embankment of the canal.

Seeing them running, I along with my fellow employees chased the young men. Suddenly the young man wearing black lower, T-Shirt took out a pistol from his pocket and the young man wearing the jacket took out a pistol from his backpack. I warned them and directed the young men to hand over the same to the police party, however, they fired from the pistols carried in their right hands on the police party with the intention to kill.

ASI Balwan Singh and Ct. Rakesh Kumar were saved hardly and one bullet hit the right side of my stomach in the bullet proof jacket which I was wearing and another bullet hit on the bullet proof jacket worn by Ct. Nasib from front side of his stomach. Because of wearing of bullet proof jacket, the lives of me and my colleague Ct. Naseeb, were saved.

I immediately divided the team into two parts. My team moved towards the north and the other team moved towards the east. Both the teams took covers here and there and asked the young men to stop, upon which both the young men again started firing towards us. We all the employees protected ourselves by taking the available covers and I immediately called from my Mobile No.94662xxxxx and dialed 112 at around 8:10 am to inform them about the help.

Then I and my fellow employees chased the youths to protect ourselves and to stop them for self defense, I fired one shot in the air from my official revolver and ASI Balwan Singh fired one shot in the air from his official pistol. But the youths showed audacity and fired another deadly shot at the police party while running away, in response to which I fired two shots from my official revolver towards the feet of the short height youth for self defense and caring for their lives and one of the bullets I fired hit the left ankle of the short height youth and as soon as the bullet hit, the pistol fell to one side from his hand.

In order to stop the young man wearing a black lower T-Shirt, fellow employees ASI Balwan Singh fired towards his legs. The bullet hit the left leg of the young man and his pistol scattered and fell on the ground. After which both the young men were detained and their names and addresses were asked. The short height young man who was detained told his name as Sahil Kharoud son of Manish Kumar resident of Majri Mohalla, Near Bharatgas Agency, Shahabad, District Kurukshetra and the young man controlled by fellow employee ASI Balwan Singh and Ct. Rakesh Kumar told his name as Sumit Nain son of Harpal Singh resident of Naina, District Kaithal.

Looking at the situation and keeping in mind the safety of the lives of the injured, Sahil and Sumit Nain, the police team called for an ambulance on the spot immediately and sent the injured to Civil Hospital, Indri for

treatment by giving appropriate directions to ASI Balwan Singh, ASI Inderjeet No.855 KKR and Constable Banit.

2. That after some time, The Station House Officer, Police Station Indri, District Karnal reached at the place of occurrence along with police party, who were made aware about the circumstance. The persons gathered on the spot from the surrounding were asked to become a witness in the case by informing them about the circumstances of the case, however, all of them left from the spot without disclosing their name.

3. That the place of occurrence was protected. The 02 pistols used by Sahil and Sumit are lying on the place of occurrence. They have committed an offence under sections 109(1), 111(3) BNS and 25(6)/54/59 Arms Act by keeping the same in their possession without license and permit and by attacking upon the police party.”

4. Counsel for the petitioner submits that he would have no objection in case any stringent conditions this Court might put upon the petitioner including surrender of fire arms, if any and in case, petitioner repeats the offence, where the sentence prescribes 07 years or more, he has no objection if the State files an application for cancellation of bail in the present FIR and in those cases, where he is on bail. He contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his 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 reads as follows:

“19. That as per investigation the role of the present petitioner is as under:-

a) That as per final investigation report the present petitioner/accused provided Arms to main accused with which the police party was fired upon and main accused were also injured in retaliatory by the police.

b) That as per final investigation report the present petitioner/accused has assist the members of organized gang and in this way he is equally responsible for committing the crime.

c) That the present petitioner was arrested in case bearing FIR No.533 dated 06.09.2024 under sections 61, 109(1), 111(3) BNS and 25(6), 29 Arms Act, P.S. Indri, District Karnal and he has admitted his involvement in the present FIR and voluntarily admitted that he had supplied two pistols 32 bore and 30 alive cartridges.”

REASONING:

7. The allegations against the petitioner are that he supplied the arms to the main accused and he is not the person who fired upon the police party. Perusal of the criminal antecedents only one case is pending against him which shows that he is not a hard core criminal.

8. 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. As per paragraph 14 of the bail petition, the petitioner has been in custody since 12.11.2024. As per the custody certificate dated 07.07.2025, the petitioner’s total custody in this FIR is 07 months and 26 days. 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.

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.

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 members of society, complainant 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.

15. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug abuse. 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. In Md. Tajiur Rahaman v. The State of West Bengal, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

17. **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.**

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

29.07.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.