

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53465-2024
Reserved on: 18.03.2025
Pronounced on: 28.03.2025

Ashish @ Bhatti ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
71	16.04.2024	City Kotkapura, District Faridkot	307, 341, 506, 148, 149 IPC and 25, 27, 54, 59 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. In paragraph 25 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“Stated that I am resident of above said address and doing house work. On dated 15.04.2024 at about 08:00 PM I was coming back after having bow at Baba Shiv Mandir of Baba Kabal shah when I was going in between the Chaki of the Akalian and Kiryana shop of the Sachdeva in the street then my friend Mani Singh son of Shinder Singh met me on the way. We started talking when I about to left from the place then Rahul Langa came out from the house of Happy Lungi in the street of Happy Mehra and from the Endeavour car colour white parked in front of shop of Sachdeva Ram Vehniwal resident of Wara Draka, Ravel Singh @ Ravela son of Balkar Singh resident of Vada Draka, Akshay Kumar @ Sunny son of Manjitpal resident of Kotkapura armed with baseball; Bhatti Wasi Dhakka Basti Kotkapura armed with wooden handleand 3-4 unknown persons

resident of Dhakka Basti they are also armed with baseball has come out from the car and come to my side then Rahul Langa has shouted Lalkara and said that today you will not be spared. We let you know to help Money Singh son of Shinder Singh resident of Kotkapura, All of them encircled me. Then Akshay Kumar gave a hit of his baseball on me that hit my back, then Bhatti resident of Kotkapura hit me with his armed wooden handle that hit my back. I fell down then all of them had beaten me while I was lying on ground and had given a blow to my stomach. When I ran away after leaving them, then Ravel Singh @ Ravel and Ram Veniwal took out an armed pistol from their Dabs and fired on me with an intention to kill me. Then one fire hit me while running on right side of my back and I fell down and they fired 3-4 more, then after hearing the fire sown the people of the Mohalla gathered. After seeing the gathering of the people all of them has fled away from the spot with their weapons on Endeavour vehicle. In the meantime, my parents have come on the spot and my father Charanjit Singh after arranging vehicle has got admitted in Civil Hospital, Kotkapura. Where I was referred to Guru Gobind Singh Hospital, Faridkot where I am under treatment the bone of contention is that 4/5 days earlier all of these are having fight with my friend Mony Singh son of Shinder Singh resident of Kotkapura who was working with Vicky Bollywood Photographer Kotkapura. I have helped him. Having this bone of contention all of these in connivance with each other has attacked me and has fired with an intention to kill me. Strict Legal action may be taken against them. Statement has got recorded to you and it is heard and it is correct. Sd/- Shawanpal Singh."

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. As per State counsel, injury attributed to the petitioner is by wooden handle and on the back side.
6. It would be appropriate to refer to the following portions of the status report, which read as follows:

"Role of Petitioner:-

- (i) Petitioner was armed with a wooden handle.*
- (ii) Petitioner gave a wooden handle blow on the back on the complainant.*
- (iii) Petitioner along with co-accused gave beatings to the complainant while he was lying on the ground and has given blows on his stomach."*

7. Although the investigation points out towards petitioner's involvement in the crime but no injury has been explicitly attributed to him. Even the fire shots were attributed to Ravel Singh @ Ravel and Ram Veniwal. Thus, the petitioner's case is on

much lower footing then that of Ravel Singh and Ram Veniwal. Further, as per custody certificate dated 16.03.2025, petitioner's custody in this FIR is 10 months and 25 days and as on date, it comes to 11 months. Petitioner has clean antecedents.

8. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

9. Per paragraph 3 of the bail petition, the petitioner has been in custody since 16.04.2024. Per the custody certificate dated 16.03.2025, the petitioner's total custody in this FIR is 10 months and 25 days.

10. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie 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.

11. 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.

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 (CrL.) 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. *This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.*

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

23. 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.

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

(ANOOP CHITKARA)
JUDGE

28.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.