

CRM-M-43180-2025

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

CRM-M-43180-2025
Reserved on: 13.08.2025
Pronounced on: 22.08.2025

Sukhwinder Singh and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Chandan Singh Rana, Advocate
for the petitioners.

Mr. Jasdev Singh Thind, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
127	01.05.2025	Division No.5, District Police Commissionerate Ludhiana	333, 191(3), 190, 351(2), 324(4), 62 of BNS 2023

- The petitioners incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
- In paragraph 4 of the bail petition, the petitioners declare that they have no criminal antecedents.
- The facts and allegations are being taken from the order dated 14.07.2025 passed by the Additional Sessions Judge, Ludhiana, which reads as follows:

“2. Present FIR was registered by Major Surinderpal Singh Gill with averment that Complainant is owner of Property No 477/43-A. Ashok Nagar, Main Bus Stand Road, Ludhiana. It was allotted to Complainant in year 1952. Complainant has kept Shambhu a Gardner-cum-Servant to take care of property. Caretaker resided with his wife and children in said property. On 26/04/2025 at about 10:15 p.m. Kanchan wife of Caretaker Shambhu made phone call to Complainant that 10-15 unknown persons had criminally trespassed in said property and have ransacked belongings of Shambhu and Complainant and also caused injuries to Shambhu and

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his family. Police was called. Trespassers are same persons who had earlier also tried to take possession of same property regarding which FIR No. 165 dated 09/09/2024 was registered at P.S.Div.No.5, Ludhiana. After registration of above FIR no.118 dated 28.04.2025 Complainant in presence of Police locked the property by putting two locks on main gate. Complainant is in possession of all the photographs. Now Complainant despite old age and poor health from Delhi visited property along with his daughter Diwas Gill and son-in-law Brin Desai. To their utter shock and dismay they discovered that locks placed in presence of police had been broken. It led to registration of present FIR.”

4. The petitioners' counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family. Counsel further submits that the petitioners would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioners repeat 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 petitioners shall have no objection.

5. The State's counsel opposes the bail.

REASONING:

6. 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.

7. Per paragraph 3(a) of the bail petition, the petitioners have been in custody since 01.05.2025. Per the custody certificate(s) dated 12.08.2025, the petitioners' total custody in this FIR is 03 months & 09 days.

8. 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 petitioners make a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on bail in the FIR captioned above subject to furnishing

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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 petitioners 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 petitioners' complying with the following terms.

13. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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 nature of the allegations and the other circumstances peculiar to this case, the petitioners 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.

15. Given the background of allegations against the petitioners, 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, 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 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 petitioners 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 petitioners shall be entitled to renew and take it back in case of acquittal in this

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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.

16. The conditions mentioned above imposed by this court are to endeavor to reform and ensure that 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."

17. It is clarified that if the petitioners 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 petitioners moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

18. The significant consideration for granting bail is that the Court aims to give the petitioners another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioners also abide by the assurance made on the petitioners' behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

19. This bail is conditional, with the foundational condition being that if the petitioners repeat 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.

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

21. In *Amit Rana v. State of Haryana*, CRM-18469-2025 [Decided on 05.08.2025], in CRA-D-123-2020], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that "To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a

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situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished.”

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

(ANOOP CHITKARA)
JUDGE

22.08.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.