

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18374-2025
Reserved on: 06.05.2025
Pronounced on: 19.05.2025

Gurjeet Singh @ Jeeta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashish Grewal, Advocate
for the petitioner.

Mr. Sukhwinder Singh Rai, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
06	17.02.2023	Handesra, District SAS Nagar (Mohali), Punjab	302, 379, 34 IPC and 4 (1) and 21(1) of Mines & Minerals (Regulations and Development) Act, 1957

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. In paragraph 18 of the bail petition, the petitioner 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:

“3. That with regard to the subject matter of the present petition, it is submitted that case/FIR No.6 dated 17.02.2023 under Sections 302, 379, 34 IPC and Sections 4(1), 21(1) Mines and Minerals Act was registered at PS Handesra, District SAS Nagar against Jaswinder Singh @ Kala s/o Chhaju Singh, Jaswinder Singh @ Chhinda and Harwinder Singh @ Gaggi on the statement of Bhupinder Singh that on the night of 16.02.2023, at approximately 10:30 PM to 11:00 PM, illegal mining activities were being carried out in the village. Upon hearing the sound of tractors operating in the area, his father named Gurcharan Singh along with one Mohinder Singh proceeded to the site to investigate. It is further alleged that they intercepted one of the tractors, whose driver informed

them that Harwinder Singh @ Gaggi was carrying out mining operations on Shamlat land. Thereafter, the complainant's father asked the driver to call Harwinder Singh and to inform the Village Panchayat about the ongoing activity. Subsequently, the said driver allegedly called 5-7 other individuals to the location, who requested to be allowed to leave, assuring that they would bring Harwinder Singh to the site. It has been further alleged that, in the meantime, four more individuals including Gurjeet Singh (petitioner) arrived at the spot. It is alleged that the said Jaswinder Singh @kala was the owner of the tractor in question and Jaswinder Singh, son of Bir Singh, thereafter, started the said tractor and allegedly warned Gurcharan Singh to move out of the way or he would be run over. Thereafter, it is alleged that he drove the tractor over Gurcharan Singh, following which all the accused persons fled from the scene. Subsequently, the complainant along with one Gurcharan Singh attempted to take Gurcharan Singh to the hospital, however, he succumbed to his injuries and was declared brought dead. Accordingly, appropriate legal action was sought against the aforesaid persons. Since, the perusal of the aforesaid statement prima facie revealed the commission of offences under Sections 302, 379, 34 IPC and Sections 4(1), 21(1) Minerals Act, therefore, case/FIR No. 6 (supra) was registered against the aforesaid accused.”

4. The counsel for the petitioner seeks bail on the grounds of parity with co-accused Harwinder Singh @ Guggu and Husanpreet Singh, who were granted bail by the co-ordinate Bench of this Court vide order dated 30.11.2023 and 16.01.2024 passed in CRM-M-49938-2023 and CRM-M-31295-2023 respectively vide Annexures P-3 and P-4. He submits that in case, this Court grants bail to the petitioner, he would have no objection in case any stringent conditions this Court might put upon the petitioner. He contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. State counsel opposes bail and submits that petitioner is not entitled to bail on the ground of parity with his co-accused because they ran over an innocent person simply because he was trying to stop the mafia from mining. It would be appropriate to refer to para 5 (D, E and F) of the status report, which reads as follows:

“D) The evidence based on which the petitioner was arraigned as an accused

That the petitioner is specifically named by the complainant, which resulted into registration of present case/FIR No.6 (supra) against the petitioner and his 2 accomplices by name.

E) Evidence against the petitioner

The evidence against the petitioner is as follows: -

- i. Disclosure statement of co-accused Jaswinder Singh @ Kala who is owner of the said tractor bearing registration No. HR-01-AC-9693 which was used to run over Gurcharan Singh resulting in his death*
- ii. The call detail records and tower locations of the petitioner which show the petitioner to be present at the alleged place of occurrence at the alleged time of occurrence.*
- iii. Disclosure statement of the petitioner and his co-accused recorded by the investigating officer.*

F) Role of the petitioner

That the role attributed to the petitioner in the present case/FIR No. 6 (supra) is that on the intervening night of 16/17.02.2023, the accused Jaswinder Singh @ Kala on his tractor along with trolley was doing illegal mining from the Panchayat land in Village Badana and on the way Gurcharan Singh S/o Sardara Singh along with his friend Mahinder Singh S/o Surmukh Singh stopped him, upon which, Jaswinder Singh @ Kala called his friends namely Gurjeet Singh @ Jeeta (petitioner) and Hussanpreet Singh at the spot. The deceased Gurcharan Singh was not allowing them to take away the tractor-trolley being used for illegal mining because of which, the accused Gurjeet Singh (petitioner) ran over the tractor-trolley upon the deceased Gurcharan Singh and crushed him to death. The accused Gurjeet Singh @ Jeeta at the spot, who ran over the tractor-trolley upon the deceased Gurcharan Singh.”

REASONING:

6. There is prima facie evidence against the petitioner being part of the mining mafia, such evidence is not only in the shape of call details but in the shape of statement of witnesses. However, even as per the prosecution's own case, the petitioner was not driver of the said tractor, which was used to run over the deceased, who was trying to stop the illegal mining. The driver was named as Jaswinder Singh son of Bir Singh. At that point of time, the members of mining mafia would not have anticipated the interception by the villagers and as such, it could not be the case that they had a pre-meditated mind of running over the tractor on anyone. Thus, prima facie, it appears to be an individual act of the driver of the Tractor, Jaswinder Singh. In addition to that, the petitioner is already in custody for around 02 years, 02 months and 15 days, as such, it is not a case for further pre-trial incarceration. Furthermore, two of the similar co-accused were granted bail by a co-ordinate Bench of this Court, as such, the petitioner is entitled to bail.

7. 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 6 of the bail petition, the petitioner has been in custody since 18.02.2023. As per the custody certificate dated 05.05.2025, the petitioner's total custody in this FIR is 02 years, 02 months and 15 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.

8. 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.

9. 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.

10. 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)	

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

12. 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.

13. 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 (CrI.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

14. 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.

15. 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."

16. 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.

17. 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.

18. 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.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

19.05.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.