

337

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

**CRM-M-19198-2025 (O&M)
Date of Decision : 12-05-2025**

Hardev Singh Alias Happy

.....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Pranav Handa, Advocate for the petitioner.
(Through VC).

Mr. Sukhwinder Singh Rai, DAG, Punjab.

ANOOP CHITKARA, J. (Oral)

FIR No.	Dated	Police Station	Sections
20	17.02.2024	Division no.5, District Police Commissionerate, Jalandhar	379B, 34 201 IPC

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. Per paragraph 12 of the bail petition, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	29	16.2.2024	379B, 34 IPC	Division no.6, Jalandhar
2.	18	1.2.2024	379B, 34, 411 IPC	Division no.6, Jalandhar

3. The facts and allegations are being taken from the translated version of the FIR, which reads as follows:

“Statement of one Devinder Kumar S/O Ram Lal resident of H.No. 100 Muhla New Hargobind Colony Basti Sheikh Ghah Mandi Jalandhar aged about 47 years stated that I am a resident of the said address and I supply bakery goods, on 16.02.2024 at 5:15 am I was standing in the street of my house to buy bakery goods, I had bought some breads and I left 5 crates at my house when I came back to get back the first crate in the street Four youths were standing in the street on a Pulsar who stopped me and started manhandling me. When I protested, they hit me with the backside of dattar and forcefully took out my wallet from my pocket and took away Rs.8200 Apart from the money, there were other documents in my purse. Legal action should be taken against these robbers. I will present the list of documents later.”

4. Petitioner's counsel submits that in case the petitioner is granted bail, he has no objection to imposing of any stringent conditions, including surrender of firearms and the petitioner further undertakes that during the period of bail, he shall not commit any offence and in case he commits any offence in which the sentence provided is more than seven years, the State shall be at liberty file an application for cancellation of bail, to which they will not raise any objection.

5. The State's counsel opposes bail based on instructions.

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 10 of the bail petition, the petitioner has been in custody since 08.02.2023. Per the custody certificate dated 10.05.2025, the petitioner's total custody in this FIR is 1 Year 1 Month and 2 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 further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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. 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.

14. 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."

15. **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 be empowered and competent to cancel this bail.**

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

17. 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.

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

12-05-2025
AK

(ANOOP CHITKARA)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO