

CRM-M-325-2025

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

CRM-M-325-2025
Reserved on: 14.02.2025
Pronounced on: 28.02.2025

Kapil Sharma @ Mani Pandit

...Petitioner

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Lovish Arora, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Puneet Bhushan, Advocate
for the victim.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
15	14.01.2020	City Sunam, District Sangrur	307, 427, 506, 148, 149 IPC and 25 of Arms Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court second time under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. As per paragraph 10 of the bail petition as well as para 6 of the status report dated 17.01.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	37	27.02.2013	323, 341, 506 & 149 IPC	City Sunam
2	301	31.12.2019	341, 323, 427, 148 & 149 IPC	City Sunam
3	213	28.11.2013	341, 323, 34 IPC	City Sunam
4	35	01.02.2020	307, 324, 148, 149 IPC	City Sunam

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

“The allegations in brief are that on 14.01.2020 at about 10.50 PM all the abovesaid persons having fire arms and sticks came to the street of

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complainant's house and said that they had come to kill his son Lakhwinder Singh @ Lakhi and said, "Get him out." After saying this and raising lalkara Kapil Sharma @ Mani and others started throwing bricks and stones towards the house of complainant. After hearing the noise complainant's son Lakwinder Singh @ Lakhi, Jatinder Singh, nephew Gagandeep Singh and Malkeet Singh complainant's neighbor who had come in the house of complainant to celebrate Lohri, came out then Kapil Sharma @ Mani Pandit and his friend who was having fire arms and other persons were carrying sticks started firing and throwing bricks and stones. Kapil Sharma @ Mani Pandit having pistol, has fired gunshots towards the house of complainant. First gunshot hit near the waist above the thigh of Lakhwinder Singh @ Lakhi Patthar, another fire hit on the wrist of left arm of Gagandeep Singh (nephew of complainant). Malkeet Singh neighbourer was also injured. Kapil Sharma @ Mani Pandit etc. have fired in the air and also cause damaged by breaking the wind shield of complainant's car and motorcycles. On raising alarm abovesaid persons ran away from the spot with their respected weapons. All the three injured were got admitted to Civil Hospital Sunam, from where they were referred to Rajindra Hospital Patiala."

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 the bail and refers to the reply. On the other hand, counsel for the victim endorse his no objection to bail and refer to order dated 09.01.2025 passed by this Court.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"ROLE OF THE PETITIONER KAPIL SHARMA

The present FIR was registered against the present petitioner and his 9 other co-accused. During the investigation, a specific role of pelting brick bats firing gunshots and causing damaged to the house of complainant is found to be attributed to the present petitioner and as such he is actual accused in this case. All the accused were having fire arms and sticks and they fired gunshots in the air. Kapil Sharma (present petitioner) fired gunshots with his pistol and same stuck on the upper part of right thigh of Lakhwinder Singh and another shot hit at the left arm of Gagandeep Singh. Malkit Singh neighbor of complainant was also got injured. All the accused caused such injuries with common object. So, a specific role is

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attributed to the petitioner in the commission of present offence.”

REASONING:

7. Petitioner’s anticipatory bail was dismissed by Coordinate Bench of this court vide order dated 14.01.2021 passed in CRM-M-27444-2020. Despite that the police did not deem it appropriate to arrest the petitioner. Thus, on this ground alone, petitioner is entitled to bail subject to the compliance of following stringent conditions.

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.

CONDITIONS:

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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/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. 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.

12. *The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator.* The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

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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

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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 or where the sentence is more than three years, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

19. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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. 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.

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

(ANOOP CHITKARA)
JUDGE

28.02.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.