

CRM-M-490-2025

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

CRM-M-490-2025  
Reserved on: 04.03.2025  
Pronounced on: 11.03.2025

Ashish ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aseem Aggarwal, Advocate  
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
350	05.11.2024	Sector 65, Gurugram	115, 117(2), 126, 191(2), 191(3), 190, 351(2), 110, 249 BNS 2023 and 27(1) 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 16 of the bail petition, the accused declares the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	313	17.11.2023	148, 149, 323, 506 IPC	DLF, Phase-I, Gurugram

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

*“3. That the facts of the case are that on 4<sup>th</sup> November 2024, on 4<sup>th</sup> he Police received information to the effect that Ishwar, son of Giani Chand, had been admitted to Anand Hospital, Gurugram, due to injuries sustained in a fight. On 5<sup>th</sup> November 2024, police officials visited Anand Hospital and collected the Medico Legal Report (MLR), which documented 14 injuries on the person of the victim. The MLR indicated that some of these injuries included fractures. Upon confirming fitness of the injured victim*

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*to give a statement, the police recorded the statement of Ishwar. Ishwar stated that he was married and had three children-a son and two daughters. He worked as a driver. On 4th November 2024, at approximately 7:00 PM, after completing his work, he was traveling on his motorcycle towards Sector 59 to see rooms. Near the OPTUM Company, he was suddenly stopped by Ninder who was armed with a pistol. Ninder blocked his way and demanded that the complainant should withdraw a case which he had filed against them. When the complainant refused, Ninder called his accomplices-Saurabh, Praveen, Radhe and Sagar to the scene. It was further alleged that Ninder instructed them to "teach complainant lesson." The accused surrounded the complainant, forcing him to dismount from his motorcycle. Ninder and Praveen caught hold of him, but the complainant managed to break free. Enraged, Ninder called the others to break the complainant's legs. Following this call, the accused brutally assaulted the complainant, targeting his hand, chest, and legs. The complainant fell to the ground and cried for help. His brother, Om Prakash, came to his aid, prompting the accused to flee the scene. While escaping, the accused also threatened Ishwar with dire consequences. Ishwar was then admitted to Anand Hospital for treatment of his injuries. On the basis of aforementioned facts, the FIR was registered and investigation was taken up in the matter. The copy of the MLR of the victim is being appended to alongwith the present affidavit for the kind perusal of the Hon'ble Court as Annexure R1."*

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. He further submits that co-accused has already been released on bail and refers to the orders dated 23.01.2025 and 30.01.2025 qua co-accused Sourav and Rohit respectively.

5. The State's counsel opposes bail and refers to the reply.

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

*"That petitioner has played an active role in the commission of present crime. The allegations against the petitioner are serious and specific. As far petitioner is as the role of the the concerned, petitioner participated in the present incident with the intent to coerce withdrawing an the complainant into earlier case filed by him against the co-accused Ninder. The petitioner participated in pursuance of the objective of unlawful the common assembly, participated in a premeditated and brutal assault on*

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*the complainant, who sustained 14 injuries, including fractures, as a result of the attack. The incident was led by co-accused Ninder, who orchestrated the assault by calling the petitioner and the other co-accused to teach the complainant a lesson for refusing the withdrawal of the said case and they had conjointly inflicted injuries on the person of the complainant. It shall be apposite to mention here that even on 19.07.2024, the accused Narender and Saurav had been involved in a tiff with the complainant and proceedings under Section 126/170, BNSS were conducted qua them.”*

REASONING:

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.

8. Per paragraph 7 of the bail petition, the petitioner has been in custody since 08.11.2024. Per the custody certificate dated 03.03.2025, the petitioner's total custody in this FIR is 03 months & 24 days.

9. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, co-accused granted benefit of bail by Sessions Court and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

10. 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.

11. 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.

12. 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.

13. 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)	

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4.	E-Mail id (If available)	
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14. 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.

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

16. 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.

17. 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."

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18. 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.

19. **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.**

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

11.03.2025  
anju rani

Whether speaking/reasoned: Yes

Whether reportable: No.