



CRM-M-53655-2024

-1-

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

CRM-M-53655-2024

Date of decision: 14.01.2025

Amit

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Akshay Kumar Dahiya, Advocate,
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
257	18.03.2021	Kharkhoda, District Sonipat	120-B, 148, 149, 302, 452, 59 IPC and Sections 25, 27, 59 of the Arms Act.

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 Cr.P.C., seeking regular bail.

2. Per paragraph 8 of the bail application and the reply dated 04.12.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Sections	Police Station
1.	256	18.03.2021	450, 506, 120-B, 506 IPC and 25 of the Arms Act	Kharkhoda, Sonipat
2.	191	18.03.2021	307, 120-B, 34 IPC and 25 of the Arms Act	City, Sonipat

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

2. That briefly stating the facts involved in the instant case are that on 18.03.2021, acting upon an information that Krishan son of Rattan Singh, resident of village Barona, District Sonipat, police officials rushed to the spot, where wife of deceased Krishan namely Smt. Anita presented a complaint, stating therein that she has two sons namely Dinesh and Ajay @ Bittu, who is confined in jail in murder case. She further stated that today i.e. on 18.03.2021, at about 1.00 p.m, she and her husband Krishan were present at their house, when they heard voice from the gate of their house "Tau-Tau", on which her husband opened the



gate and found 8-10 persons outside the gate of their house and they abruptly entered their house and fired upon her husband. The complainant further stated that when her husband ran towards the room from the gate, all the 8-10 persons chased him and fired shots at her husband and the bullets hit the shoulders, stomach, chest etc, of her husband. The complainant raised suspicion that due to previous enmity with one Muniya, who is their co-villager, said Muniya alongwith his companions, his brother Barjesh, friends Ram Karan Baiyanpur, Naresh, Jasbir, Ramesh Nayabans, Rajesh Sarkari, Neetu Khanda, Pona Madina, Ashish, Vicky Chitana, Smt. Parvinder Kaur wife of late Shri Satyawar, Sonu Malik Gandhra, Shashi Parkash Advocate Sonipat, Mahesh posted in Haryana Police, Smt. Aarti wife of Sonu Malik, mother of Muniya, Anand Gandhra in collusion with each other, have got murdered her husband by firing multiple gunshots by 8-10 persons. She further stated that about three months ago, Sonu Malik and Mahesh, employed in Haryana Police had extended threat to her for dire consequences for her family. With these allegations, the complainant sought for legal action against the culprits. On the basis of above complaint, instant FIR was registered and investigation was set into motion.

4. Petitioner seeks bail on the grounds of parity with co-accused, namely, Parvinder Malik to whom this Court has granted bail by passing order in CRM-M-2305-2022 and also on parity with another co-accused, namely, Naresh Saroha @ Nesha, to whom, Hon'ble the Supreme Court has granted bail by passing a order in SLP (Crl.) No(s). 11976-2023.

5. Petitioner's counsel argued that witness No. 2 did not support the prosecution case and a such, there is no evidence to implicate him.

6. 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.

7. The State's counsel opposes bail and submitted that petitioner is not entitled for bail on the ground of parity and even otherwise, there are sufficient evidence involving him with the commission of crime and in case, he is granted bail, there is likelihood of his repeating the offence.

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

“16. That as far as the role of petitioner in the above mentioned crime is concerned, in this regard, it is submitted that present case is an organized crime and in execution of the conspiracy hatched by petitioner with co-



accused Ram Karan etc. to commit the above the mentioned crime, 18.03.2021, petitioner/accused Amit @ Mita, as per the instructions of co-accused Ram Karan, had led the co-accused Monu Lalheri etc. to the house of deceased Krishan and when co-accused Monu etc. were firing gunshots at the deceased, he (petitioner Amit) was present at the spot and he was standing at the gate of house of deceased for keeping watch and after the occurrence, he along with co-accused had fled away from the spot in Scorpio vehicle, which was kept by him. All these facts have also been admitted by petitioner in his disclosure statement, pursuant to which, he got demarcated the place of occurrence. In this manner, petitioner had actively participated in the above mentioned crime. The case is pending for prosecution evidence and if enlarged on bail, petitioner can tamper with the prosecution evidence by influencing prosecution witnesses and can also hamper the trial by absconding from the process of law. Merely on the basis of longevity of incarceration, petitioner is not entitled to seek the concession of bail as a matter of right. Thus, keeping in view the seriousness of offence, role of petitioner in committing the crime, punishment provided and antecedents of petitioner, he is not entitled to the relief of bail as claimed for.”

9. The allegations against the petitioner are that he was standing at the gate of the deceased’s house and was keeping a watch on people and after that he had also fled in the vehicle.

10. Prosecution witness No.2, namely, Anita was examined and she was declared hostile. Although, there is sufficient admissible evidence in the statement of Anita despite been declared hostile, but this Court in the present case is concerned only with the evidence available against the petitioner. The allegations against the petitioner were on the lesser footing than against Naresh Saroha @ Nisha to whom, Hon’ble the Supreme Court had granted bail in the SLP mentioned above.

11. 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.

12. Per paragraph 7 of the bail petition, the petitioner has been in custody since 02.04.2021. Per the custody certificate dated 15.11.2024, the petitioner’s total custody in this FIR is 03 years, 03 months and 05 days.

13. 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, subject to



the compliance of terms and conditions mentioned in this order.

14. 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.

15. 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.

16. 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)	

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

18. 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.

19. 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.

20. 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



CRM-M-53655-2024

-5-

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.

21. 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."

22. 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.

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

24. 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.

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

(ANOOP CHITKARA)
JUDGE

14.01.2025
smriti

Whether speaking/reasoned: Yes
Whether reportable: No.