

CRM-M-47576-2025

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

CRM-M-47576-2025
Reserved on: 03.09.2025
Pronounced on: 24.09.2025

Jaswant Singh @ Jassa

...Petitioner

Versus

State of UT Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Gehlawat, Advocate and
Mr. Shahbaaz Sandhu, Advocate
for the petitioner.

Mr. Manish Bansal, PP, UT Chandigarh and
Mr. Navjit Singh, Advocate
for the respondent-UT.

ANOOP CHITKARA, J.

| FIR No. | Dated | Police Station | Sections |
|---------|------------|-------------------------------|---|
| 129 | 26.11.2024 | Sector-26, East Chandigarh | 309, 3(5), 317(2) of BNS 2023 and later on added Section 310(2) of BNS 2023 |

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 13 of the bail petition as well as custody certificate dated 03.09.2025, the petitioner has no criminal antecedents.

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

“That the instant FIR was registered on the basis of a complaint given by Smt. Raksha Sharma, aged 82 years, who stated that in the night of 25/26.11.2024 four unknown persons entered her house, wrapped her in a blanket, threatened her and took away jewellery, two mobile phones and cash of Rs. 37,000/-. On the basis of the said information the present FIR was registered.”

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

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petitioner and their family. Counsel further submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

5. The State's counsel opposes bail and refers to para 4 to 7 of the reply, which read as follows:

"5. That after the registration of the instant FIR, during the investigation, it came to light that the accused persons had entered the house and forcefully robbed the complainant of cash and jewellery. The investigation revealed that the petitioner was one of the individuals involved in the crime, even though the complainant initially stated that there were only four persons, investigation revealed involvement of five accused.

6. That during the course of the investigation, significant recoveries were made at the instance of the accused persons, linking them directly to the crime. Specifically, the following articles were recovered from the respective accused at their homes in Ludhiana:

From co-accused Kaka @ Golu: Two gold chains one pair of gold bangles, and one gold Tikka.

From co-accused Lakshay: One gold chain, one silver glass, one silver gadavi, one silver Ganesh Murti, one silver Shiv Parvati Murti, and one Samsung mobile phone of black and yellow color.

From present petitioner: Two gold kadas (ladies) and one mangalsutra.

From co-accused Varinder: Two gold rings (gents) and one pair of jhumkas.

From co-accused Jasmeet Singh (@ Sharry: One gold and silver Rado wrist watch, two pairs of gold tops, one gold chain with locket, and one ladies gold ring.

7. That the complainant, Smt. Raksha Sharma, in her statement during cross-examination, identified the present petitioner as her sister's son, and also identified some of the recovered articles during TIP (Test Identification Parade) on 14.01.2025 in front of Tehsildar DC Office Chandigarh. Further, the complainant identified four accused persons namely Kaka @ Golu, Lakshay, Varinder and Jasmeet Singh (@ Sharry as the one's who entered her house. The petitioner's involvement has been established through the course of the investigation and the statement of the

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complainant regarding the circumstances of the crime.

8. That the investigation has also yielded critical forensic evidence. During investigation, on 26.11.2024, a 10 rupees note was recovered from the crime scene which was taken into police possession and was sent to CFSL, Chandigarh for DNA profiling as it contained mouth saliva and drug particles on it. DNA profiling was done and it was found that the saliva was that of present petitioner and co-accused Kaka @ Golu. Notably, CFSL report also confirmed the presence of Heroin in their bloodstream. Furthermore, the fingerprints on Almirah at the crime scene taken by MFT, Chandigarh Police which was later matched with co-accused Lakshay.”

REASONING:

6. The complainant statement has already been recorded and although she identified the petitioner as one of the accused and there is sufficient evidence of recovery of the stolen property from him, but this Court cannot lose sight of the fact that the petitioner has already been in custody for more than nine months.

7. Although, 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 14 of the bail petition, the petitioner has been in custody since 29.11.2024. Per the custody certificate dated 03.09.2025 the petitioner’s total custody in this FIR is 09 months & 06 days.

9. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹In deciding bail applications an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial.—Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? —Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? —Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail.² Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar

¹ Supreme Court of India in Vaman Narain Ghiya v. state of Rajasthan, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

²Supreme Court of India in State of Kerala v. Raneef, SC 2J [E-SCR]; [2011] 1 SCR 590, Para 4, decided on 03.01.2011.

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facts and circumstances of the case.³ Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.⁴ When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated.⁵

10. Given the above, 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.

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

12. Given the 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 or duty Magistrate, with or without sureties, with a maximum bond amount not to exceed INR 10,000.

13. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, the surety is capable of producing the accused. However, instead of surety, the petitioner may provide a fixed deposit of INR 10,000/-, with a clause that the interest shall not be accumulated in FD, either drawn from a State-owned bank or any bank listed on the National Stock Exchange and/or Bombay Stock Exchange, in favour of the "Chief Judicial Magistrate" of the concerned Sessions Division; or a fixed deposit made in the name of the petitioner, with similar terms and with endorsement from the banker stating that the FD shall not be encumbered or redeemed without the permission of the concerned trial Court, or until the surety bond has been discharged.

14. 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) | |

³ Supreme Court of India in Siddharam Satlingappa Mhetre v. State of Maharashtra, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

⁴ Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

⁵ Supreme Court of India in Sanjay Chandra v. CBI, [2011] 13 (ADDL.) S.C.R. 309, Para 26, [E-SCR], decided on 23.11.2011.

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

16. 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.

17. 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.

18. 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."

19. 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.

20. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as

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an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

21. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State shall file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

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

23. In *Amit Rana v. State of Haryana*, CRM-18469-2025 [Decided on 05.08.2025], in CRA-D-123-2020], a Division Bench of Punjab and Haryana High Court in paragraph 13, holds that "To ensure that every person in judicial custody who has been granted bail or whose sentence has been suspended gets back their liberty without any delay, it is appropriate that whenever the bail order or the orders of suspension of sentence are not immediately sent by the Registry, computer systems, or Public Prosecutor, then in such a situation, to facilitate the immediate restoration of the liberty granted by any Court, the downloaded copies of all such orders, subject to verification, must be accepted by the Court before whom the bail bonds are furnished."

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

(ANOOP CHITKARA)
JUDGE

24.09.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.