

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8719-2025
Reserved on: 06.03.2025
Pronounced on: 17.03.2025

Vishal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Singh, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
479	28.12.2020	Sadar Jind, District Jind	395, 397 IPC and 25 of Arms Act (Section 120-B IPC added later on)

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

2. In paragraph 31 of the bail petition, the accused declares that he has no criminal antecedents. However, as per paragraph 14 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	324	29.08.2020	302, 147, 148, 149, 120-B IPC and Section 25 of Arms Act	Sadar Gohana

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

“2. That, the brief facts of the case are that on 28.12.2020, ASI Vinod Kumar along with Ct. Sunil and SPO Satish was present in Civil Hospital, Jind when MHC gave an information regarding a robbery being committed by 4-5 boys in Central Bank of India, Village Barsola. On receipt of this information, they reached there. Statement of Bank Manager Abhijit son of Shri Surja Ram, resident of H.No.2037 Sector 16/17, Hisar was recorded wherein he stated that today i.e. on 28.12.2020, at about 12.05 PM, he was working on his computer. Head

Cashier Kapil Dev was on the cash counter. At that time, four boys, out of which two were armed with weapons entered the bank and one boy stood guard at the gate. All the boys started abusing them. Two of them fired. They took Rs.45,600/- cash and the bag of Head Cashier containing one mobile with Sim No.98967xxxx, ID Card, key of shutter of the bank, Cheque book, RC of motorcycle No.HR-31P-5324 and Driving Licence. Thereafter, all the five accused ran away on two motorcycles. Further requested for taking legal action against the accused persons was made. On the basis of above statement, present case bearing FIR No.479 dated 28.12.2020, under Sections 395 of IPC and 25 Arms Act was registered at Police Station Sadar Jind, District Jind (Annexure P-1).”

4. The petitioner’s counsel submits that on the date of alleged incident i.e. on 28.12.2020, the petitioner was about 17½ years and was minor. The petitioner is a student and doing BBA and as per the university schedule his exam was going on. He submits that after a gap of more than four years, he has been falsely involved in the case. He further submits that the weapon used in the crime has already been recovered from the co-accused Deepak @ Kuku in another FIR i.e. FIR No.146 dated 25.02.2022. He further submits that the complainant and other star witnesses have been examined but they did not identified the co-accused. The name of the petitioner has been surfaced in the supplementary statement of the co-accused and at the time of disclosure statement, no independent witness has been joined by the prosecution.

5. 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 his family.

6. The State’s counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

“15. That the complicity of the petitioner is concerned, it is submitted that the petitioner-accused was actively involved in the commission of offence. The present FIR has been registered for the commission of offence punishable under Sections 395/397/120-B IPC and Section 25 of the Arms Act on the allegations that five boys committed dacoity in the Central Bank after arming themselves with deadly weapons. During the course of investigation of the case from the disclosure statements of the co-accused (Annexure R-1 to R-3), it has been surfaced that the petitioner-accused after committing the loot in bank has taken away the amount of loot Rs.45,000/- and two country made pistols with him and thereafter, gave it

to co-accused for their personal expenses. The petitioner-accused had actively participated in the commission of offence. The allegations against the petitioner-petitioner are serious in nature. The petitioner-accused is also involved in one another case bearing FIR No.324 dated 29.08.2020 under Sections 302, 147, 148, 149, 120-B IPC and Section 25 of the Arms Act, P.S. Sadar Gohana. If the petitioner-accused is released on anticipatory bail, then he will not cooperate with the police in the investigation of the case. The recovery of motorcycle and balance of the amount is also to be made from the petitioner-accused. Hence, the custodial interrogation of the petitioner-accused is required for sustained investigation.

16. That, in view of the facts and circumstances explained above no ground is made out to grant concession of anticipatory bail to the petitioner and if this Hon'ble Court is pleased to grant the concession of anticipatory bail to the petitioner, then possibility of violation of terms and conditions of bail bonds cannot be ruled out. There is also possibility that the petitioner will not appear before the trial court and possibility of the petitioner-accused in another similar case cannot be ruled out. Custodial interrogation of the petitioner for sustained investigation of the case/ unearth the true facts of the present case is required. It is further submitted that in case of the dismissal of the instant petition, the police shall arrest him in this case.”

REASONING:

8. There is no evidence except the disclosure statement of co-accused and incident relates to the year 2020 when petitioner was minor. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked 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 custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order. 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. 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. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory 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.

12. 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)	

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

14. 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.

15. 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.

16. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, 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.

17. 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 days, providing an opportunity to avail the remedies available in law.

18. 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.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

17.03.2025

Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.