

CRM-M-4555-2025

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

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Decided on: 31.01.2025

Mohit Malhotra @ Kaka

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sumit Dua, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Prashant Bansal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
127	01.09.2024	Division 1, District Jalandhar	109, 3(5) of BNS 2023 and 25 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. The facts and allegations are being taken from the copy of FIR, which reads as follows:

“Statement of Udham Singh son of Jaspal Singh Resident of House No. 72 Near Kalia Colony Backside of Gauri Shankar Mandir Jalandhar Age 38 years 90410-xxxxx stated that I am a resident of the said address and I work as a vegetable market transporter. On 30.08.2024 me and my friend Bhupinder Kumar @ Rajat S/O Surinder Pal R/O New Jawala Nagar Maqsuda Jalandhar time around 9:00 PM we found the back side street of Sabji Mandi Maqsuda, there we went to eat. Where the street vendor Rahul S/o Ram Dulare resident of New Ratan Nagar Street No. 05 Jalandhar which was known to me and he used to sell meat and eggs to whom we ate meat and eggs and when we started paying money, an unknown person was standing there and who said that today we have to set gunfire and I went and asked him why he has to set gunfire and he started arguing with me and pushed me. Rahul started to free both of them

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during the fight, but the unknown boy did not move, so Rahul, who knew him, called his brother Kratik saying that your brother's doing fight with someone, on which his brother Kratik alongwith other unknown four persons came in the vehicle. As soon as he came, he said, "Who are you?" He threatened me by abusing me and fired a shot which passed over my shoulder and when he started firing the second shot to kill me, he fired a shot which hit my right hand. On Due to which I started bleeding and Kartik's friends also beat me while shouting by me then Kartik and his friends ran away from the spot on a vehicle with their weapons while shouting and threatening. By chance my friend Bhupinder Kumar @Rajat arranged a ride to the Civil Hospital for treatment and admitted me where Dr. Sahib treated me and cut my MLR, who referred me to Amritsar Hospital. When I reached Amritsar for treatment, he said that all the medical Bring the document, due to not getting the document, I entered Johal Hospital where I am under treatment. I later found out that the young man who shot me was (Kratik son of Suresh Kumar resident of House No. 311/21 Nagar Jalandhar along with his partner Mohit Malhotra @ Kaka son of Vijay Malhotra R/O H No 170 Amar Nagar Jalandhar and legal action should be taken against the unknown companions. I am writing this statement in the presence of my wife, Balwinder Kaur, and I am writing it in the hope of completion. I have written the statement I have heard it 1 sd/-(LTI) left hand thumb verification Palwinder Singh ASI Police Station Division No. 1 Jalandhar Date 1.09.2024."

3. 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.
4. Counsel appearing for the complainant submits that he would have no objection if the present petition is allowed. However counsel for the State opposes the bail.
5. Given the nature of allegations coupled with the fact that parties have compromised the matter, there is no need to call for any status report from the State and this Court would not deny bail, however, it is clarified that this bail order shall neither be considered as a reason to quash the FIR nor shall come as hinderance in the way of the prosecution or the Court in case, there is violation of Sections 216/217 BNS 2023 (181/182 IPC earlier).
6. 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.

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7. As per paragraph 8 of the bail petition, the petitioner has been in custody since 02.09.2024 and accordingly his total custody in this FIR is approximately 05 months.

8. 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 further pre-trial incarceration at this stage.

9. 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.

10. 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.

11. 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)	

12. 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.

13. 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.

14. **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.**

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

16. A certified copy of this order would not be needed for furnishing bonds, and any

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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.

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

(ANOOP CHITKARA)
JUDGE

31.01.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.