

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

CRM-M-13028-2025
Reserved on: 08.04.2025
Pronounced on: 29.04.2025

Kewal Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amrit Paul Nahar, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
15	08.02.2025	Division No.1, District Pathankot	115(2)/191(3)/190/333/351(3) of BNS 2023 and Section 109 of BNS added later on.

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 application and 20 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1	20	12.02.2024	307/323/324/341/379-B IPC	Mamoon Cantt., District Pathankot
2	67	02.05.2021	353/186 IPC	Division No.2, District Pathankot
3	165	24.12.2023	307/379-B/34 IPC	Division No.2, District Pathankot

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

“3. That FIR No. 15 dated 08.02.2025 U/s 115(2), 191(3), 190, 333, 351(3) of BNS, 2023 (offence punishable U/s 109 of BNS, 2023 added later on vide DDR No. 38 dated 11.02.2025) was registered at Police Station: Division No. 1. District Pathankot was registered on the basis of a statement given by the complainant namely Ashish Sharma where he stated he has a palace namely "White Peral Palace which is being run

by the complainant and his cousin Nakul @ Shivam. On 07.02.2025 at about 04:00 PM, when Nakul @ Shivam was present at the said palace and complainant was also standing near the palace, one boy and girl entered the palace and started manhandling with Vinay, the watchman. When Nakul @ Shivam restrained the said persons, then they started abusing Nakul @ Shivam and Vinay. The complainant also intervened and in the meantime, the boy made a telephonic call pursuant to which unknown persons armed with datar and baseball bats came to the palace and started giving beatings to Nakul @ Shivam and Vinay. When the victims (Nakul @ Shivam and Vinay) raised noise, the assailants fled from the spot. On checking the CCTV footage, the complainant came to know that Kewal Singh (petitioner) and Lucky gave datar blows upon the face, stomach and chest of Nakul @ Shivam and after that, Kewal Singh (petitioner) and Lucky gave datar blows upon Vinay's right-hand fingers and left wrist and stick blows upon Vinay's left knee. Furthermore, Monica had instigated the accused persons who had given beatings to Nakul @ Shivam and Vinay. Hence, instant case FIR was registered against Kewal Singh (petitioner), Lucky, Monica and unknown persons initially U/s 115(2), 191(3), 190, 333, 351 (3) of BNS, 2023.”

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.

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

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

“ROLE OF THE PETITIONER:

17. That the petitioner has been specifically named by the complainant Ashish Sharma as well as the victims Nakul @ Shivam and Vinay. The petitioner with an intention to kill, gave 5 reverse datar blows upon Nakul @ Shivam's right arm, left side of chest, stomach, back, left cheek. Furthermore, the petitioner, with an intention to kill, gave a reverse datar blow upon Vinay's head.

EVIDENCE AGAINST THE PETITIONER:

18. That the MLR(s) of victims Nakul @ Shivam and Vinay (Annexure R1/T and Annexure R2/T respectively) duly corroborate the oral averments made by the complainant and victims.”

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 the custody certificate dated 07.04.2025, the petitioner's total custody in this FIR is 01 month and 26 days.

9. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the

prima facie analysis of the nature of allegations, nature of injury attributed to the petitioner and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

10. 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.

11. 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.

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 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 (CrI.) 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."

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.

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

(ANOOP CHITKARA)
JUDGE

29.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.