

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

CRM-M-9987-2025
Reserved on: 03.04.2025
Pronounced on: 24.04.2025

Jatin alias Jatin Sethi alias Anda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Avtar S. Khinda, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
175	13.07.2023	Kotwali, District Kapurthala	160, 302, 323, 324, 148, 149, 120B, 186, 353, 332 IPC and Section 42 of Prison Act (Sections 303, 325, 326 IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. Per paragraph 16 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	168	13.07.2018	451, 506, 379, 323, 148, 149, 324 IPC	Rama Mandi, Jaland
2	281	02.12.2018	392, 397, 386, 109 IPC and 25/54/59 of Arms Act	Rama Mandi, Jalandhar
3	249	26.08.2022	22/61/85 of NDPS Act	Division No.2, Jalandhar
4	85	11.03.2023	21/61/85 of NDPS Act	Rama Mandi, Jalandhar
5	53	11.03.2016	324, 325, 323, 148, 149 IPC	Rama Mandi, Jalandhar

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

“4. That it is respectfully submitted that the present case bearing FIR No. 175 dated 13.07.2023, u/s 160, 302, 303, 323, 324, 325, 326, 332, 186, 353, 148, 149, 120-B IPC and Section 42 Prison Act, registered at Police Station Kotwali, District Kapurthala at the instance of Hemant Sharma, the then Additional Superintendent, Central Jail, Kapurthala.

5. That the deponent would humbly submit that the incident in question took place on dated 13.07.2023, wherein initially 22 prisoners were nominated as accused. However, vide Report no. 32 dated 19.07.2023 on the basis of letter no. 2760 dated 18.07.2023 received from the Superintendent, Central Jail, Kapurthala for nominating 10 more prisoners as accused for their involvement in the said incident. Among them, the present petitioner, Jatin Sethi alias Anda son of Sandeep PID= 352617, was specifically nominated.

6. The injuries were inflicted upon the deceased and injured prisoners with sharp edge Iron Weapon- (Patti) type on the head and other parts of Simranjit Singh. Subsequently during the treatment, the above said injured Simranjit succumbed to his injuries at Guru Nanak Medical College Amritsar on 13.07.2023 after which a case was registered, and an investigation was carried out.”

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 reply.

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

“The role of the petitioner:

15. No injury was attributed to the petitioner. His act was not isolated but was committed in furtherance of a common intention, as is clear from the report of Hemant Sharma, the then Additional Superintendent, Central Jail, Kapurthala. That the group of prisoners that actively participated in the attack on deceased and injured prisoners, and after the attack while running away they threw the weapons used in the attack on side of the path way. The same were produced by Hemant Sharma, the then Additional Superintendent, Central Jail, Kapurthala and the same were recovered by the then SHO, Kotwali, Kapurthala.”

REASONING:

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime but no specific injury attributed to the petitioner nor any weapon used by him specified by the State despite affording sufficient opportunity. No grudge/motive was explained by the State. Petitioner was not named when FIR was registered as such the petitioner is not a main accused. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 10 of the bail petition, the petitioner has been in custody since 13.07.2023. Per the custody certificate dated 02.04.2025, the

petitioner's total custody in this FIR is 01 year, 08 months & 07 days. 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.

8. 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.

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

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. 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.

14. 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.

15. 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."

16. 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.

17. **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.**

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

24.04.2025

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Whether speaking/reasoned: Yes

Whether reportable: No.