

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14661-2025
Reserved on: 01.04.2025
Pronounced on: 08.04.2025

Sanjay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Pankaj Nanhera, Advocate and
Mr. Pradeep Duhan, Advocate, for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
85	28.02.2025	Agroha, Distt. Hisar (Haryana)	115, 127(2), 308(7) and 33 of BNS

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 15 of the bail petition and as per paragraph 6 of the reply, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	263	12.04.2021	25, 29, 54 and 59 of Arms Act	Sadar Hisar
2.	267	14.04.2021	25, 29, 54 and 59 of Arms Act	Sadar Hisar

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

“3. That the brief facts of the case are that on 28.02.2025, the complainant, Rajesh alias Dholu, submitted an application stating that he had an altercation with Dariya Singh Bhariya. The latter's son, Jagdeep Bhariya, had been incarcerated but was recently released from jail. Approximately fifteen days prior to the submission of the complaint, the complainant received a phone call from petitioner/accused Sanjay Khati, who informed him that Jagdeep Bhariya intended to kill him. The complainant, fearing for his life, expressed his concern, whereupon Sanjay

Khati offered to arrange security for him. Consequently, Sanjay Khati (petitioner/accused) introduced him to Dholu Chaudhary in Sector 14, Hisar, who assured the complainant that he had several associates who could provide him with protection. Under the pretext of providing security, the accused extorted a total sum of Rs.42,00,000/- from the complainant through various cash transactions by inducing fear of death. Based on these allegations, the complainant sought legal action against the accused. Acting upon the complaint, FIR No. 85 dated 28.02.2025 was registered at Police Station Agroha, District Hisar, under Sections 115, 127(2), 308(7), and 333 of the Bharatiya Nyaya Sanhita (BNS).”

4. The petitioner's counsel prays for bail by imposing any stringent conditions including surrender of fire arms and restrict entry of petitioner in the property/workplace of the victim and he shall not pressurize, induce, threaten the family members of the victim. He further contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his 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:

“7. That, with respect to the role of the petitioner/accused, it is submitted that the petitioner/accused, in collusion with the co-accused, extorted a sum of Rs.42,00,000/- from the complainant by placing him under the fear of death. The petitioner/accused was the principal conspirator and mastermind behind the entire scheme, as he initially contacted the complainant and falsely informed him that Jagdeep Bhariya intended to kill him due to a prior altercation between the complainant and Dariya Singh (father of Jagdeep). Subsequently, the complainant discovered that no such threat existed from Jagdeep Bhariya. That the petitioner/accused not only fabricated the alleged threat but also introduced the complainant to co-accused Dholu Chaudhary, collected money from him, and remained in communication with him over the phone. The petitioner/accused, Sanjay, is a named accused in the case, while the remaining accused were dispatched by him under the guise of providing security to the complainant. The petitioner/accused induced the complainant into paying the extorted amount by instilling fear of an imminent attack by Jagdeep Bhariya, despite the absence of any genuine threat. That the CCTV footage clearly depicts 7-8 individuals entering and subsequently exiting the complainant's residence. One of the individuals is visibly carrying a polythene bag, which is suspected to contain currency notes. Furthermore,

the accused deliberately concealed a weapon within the complainant's residence with the intent to further intimidate and terrorize him. The said weapon was later discovered by the complainant and subsequently handed over to the police. That the custodial interrogation of the petitioner/accused is imperative for the recovery of the extorted amount and for ascertaining the identities of other co-accused involved in the commission of the offense.

REASONING:

7. Allegations against the petitioner are that he along with other co-accused extorted Rs. 42,00,000/- from the complainant after putting him in the fear of death. A perusal of status report shows that no transaction has been made between petitioner and complainant. However, the petitioner introduced the complainant to Dholu Chaudhary only for his protection from Jagdeep Bhaiya, who was recently released from jail. In addition to that, there are no allegations against the petitioner of house trespassing, wrongful confinement and no injury caused by the petitioner, as such, he is entitled to bail.

8. 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. 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 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.

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

13. 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.

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 background of allegations against the petitioner, it becomes paramount to protect the members of society, complainant/victim 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 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.

16. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the victim's property, workplace, and residence 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 (CrL.) 458); and Aparna Bhat v. The State of Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.

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. 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.

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 be at 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.

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

(ANOOP CHITKARA)
JUDGE

08.04.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.