

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-628-2025
Reserved on: 10.03.2025
Pronounced on: 25.03.2025

Veer Singh Chahal

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate and
Mr. Nitin Sachdeva, Advocate, for the appellant.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
723	10.10.2024	Barwala, Distt. Hisar	115(2), 127(2), 190, 191(2), 308 (4, 5), 351(3), 54 of BNS, Section 3(1)(r), 3(1)(s), 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

1. Aggrieved by the dismissal of his bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], for the offenses including under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, [SCSTPOA], the accused has come up before this court by filing an appeal under section 14-A of SCSTPOA, seeking bail.

2. In paragraph 21 of the grounds of appeal, the accused declares that he has no criminal antecedents. However, as per paragraph 12 (D) of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	319	31.12.2021	323, 406, 498-A, 506 IPC	Industrial Area, Bhiwani

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

“3. That brief facts of the case are that one Ompal son of Kali Ram gave a statement to the police that he along with Jalinder, Harbir, Babu Ram, Sarvesh, Dalip, Guddu, Vishal, Pappu, Bhura and Suraj had come to

Banbhori fair on dated 02.10.2024 to work as labourer. They were engaged by Contractor (Thekedar) Satish Jangra, Aman, Sewa Ram, Rajbir, Rajender and 8 to 10 other persons. After the conclusion of the fair, when they asked for their wages, Satish Jangra and his accomplices assaulted the complainant and his other labourer friends and also locked them in a room nearby and kept them there for the whole night. Then these persons started calling family members of the complainant and his friends asking them for extortion money of Rs. 5 lakhs and threatened to kill the complainant and his friends. The information was given in P.S. Titavi (U.P.) by the family members of the complainant and his friends. Some unknown persons also reported about the assault and kidnapping of the complainant and his friends at PS Barwala. The police reached at the spot and rescued all of them from that room. They were taken to hospital for their medico legal examination. Upon this case FIR No.723 Dated 10.10.2024 under Sections 115(2), 127(2), 190, 191(2), 308(4), 351(3) of Bhartiya Nyaya Sanhita was registered at Police Station Barwala, District Hisar.”

4. The Appellant's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the Appellant 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:

“12. That as far as the role of the petitioner/accused, it is submitted that the allegations against the petitioner/accused are that he along with other co-accused abducted, assaulted and humiliated the complainants and thereafter extorted money from them and complainant parties were got released by the police. Eleven persons have sustained injuries. Complainant Om Pal sustained six injuries, whereas Sarvesh sustained four injuries. Details under headings are below:-

***A. The evidence based on which the petitioner was arraigned as an accused:** That petitioner/accused name reflects in the supplementary statements of other victims. Allegations against the petitioner/accused are that he along with other co-accused abducted, assaulted and humiliated the complainants and thereafter extorted money from them and complainant parties were released by the police. Eleven persons have sustained injuries. Complainant Om Pal sustained six injuries, whereas Sarvesh sustained four injuries.*

B. The evidence against the petitioner: The investigating agency has collected the record of transfer of Rs. 5,000/- by G-Pay from the account of Krishan Pal Singh. The accused had called the complainant party and demanded money from them and an audio recording was also obtained during the investigation. The police have also obtained the permission to collect the voice sample of the petitioner/accused. A rubber pipe was also recovered from the petitioner/accused.

C. The role of the petitioner: The petitioner/accused actively participated in the incident and assaulted the victims and he is the man who instigated other co-accused for this offence. The accused had called the complainant party and demanded money from them and an audio recording was also obtained during the investigation. That petitioner/accused also got registered a false FIR No.724 dated 11.10.2024 against the labourers (victims) under sections 115 (2), 126 (2), 190, 191 (2), 304, 74, 62 BNS at Barwala police station and co-accused Satish transferred Rs. 30 thousand in the bank account of petitioner/accused for this work. For registration of this FIR, petitioner/accused and his so-called wife co-accused Sukanya made up a false story. This FIR was also found false during investigation.”

REASONING:

7. In Prathvi Raj v. Union of India, 2020:INSC:157 [Para 10], AIR 2020 SC 1036, a three-judge bench of the Hon’ble Supreme Court read down S. 18 by declaring as follows,

[10]. Concerning the applicability of provisions of section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply.

8. The allegations are of assaulting, abduction and abusing the people belonging to the scheduled castes by using derogatory words prohibited under the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SCSTPOA).

9. The pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the appellant with the alleged crime. However, as per paragraph 19 of the grounds of appeal, the appellant has been in custody since 11.10.2024. As per the custody certificate dated 27.02.2025, the appellant’s total custody in this FIR is 04 months and 16 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 for further pre-trial incarceration at this stage.

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10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the appellant 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 appellant is not required in any other case, the appellant 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 Appellant 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 Appellant's complying with the following terms.

14. The Appellant shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The Appellant 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 appellant, 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 appellant 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 appellant 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.

16. Given the nature of the allegations and the other circumstances peculiar to this case, the appellant 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 (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

17. In *Siva v. State*, Crl.A. No.46 of 2024, decided on 01 Feb 2024, Justice M. Nirmal Kumar of Madras High Court, while granting bail, imposed the following condition,

[6] ...After executing all the sureties within 15 days from coming out of prison, the appellants shall file affidavit before the concerned Court which reads as follows:

“I, as a Citizen of India, having utmost faith in the Constitution of India, am quite aware that 'Untouchability' has been abolished under our Constitution. I, hereby, take pledge that knowingly or unknowingly, I will not practice social discrimination based on untouchability either by words or deeds or in any other manner. I am aware that it is my duty to serve in a true, honest and faithful manner, as per the basic principles laid down under the Constitution, to create an independent Society, without any discrimination. I solemnly affirm that this would stand to speak forever the faith I have in the Indian Constitution.”

18. The appellant is also directed to hand over two affidavits, in the same terms, attested by any Executive Magistrate or Notarized, to the concerned SHO within two weeks, one copy for the case file and one for the victim.

19. 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.”

20. It is clarified that if the appellant 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 appellant moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

21. *This bail is conditional, and the foundational condition is that if the appellant indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.*

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

23. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Appellant 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.

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

(ANOOP CHITKARA)
JUDGE

25.03.2025

Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.