

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

CRM-M-57017-2024
Reserved on: 01.04.2025
Pronounced on: 08.04.2025

Ajay Kumar @ Ajju

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Satbir Singh Gill, Advocate
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
215	29.03.2023	City Sirsa, District Sirsa	147, 148, 149, 324, 341, 427 IPC (Section 326 and 34 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 9 of the bail application and paragraph 18 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	334	30.05.2020	148, 149, 323, 324, 506 IPC	City Sirsa
2.	373	18.06.2020	323, 324, 342, 506, 34 IPC	City Sirsa
3.	524	19.08.2019	323, 324, 341, 326, 34 IPC	City Sirsa
4.	659	03.12.2021	21/61/85 of NDPS Act	City Sirsa

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

“2. That the brief facts of the case are that case FIR No.215, dated 29.03.2023, under sections 147/148/149/324/341/427 IPC (section 326/34 IPC added and sections 147/148/149 deleted during Investigation), Police Station City Sirsa, District Sirsa/Annexure P-1 was registered on the statement of Lakhwinder Singh son of Kawal Singh, resident of Guru Teg Bahadur Nagar, Sirsa, against (1) Aman, (2) Sunny, (3) Mannu and (4) Anju (present petitioner/accused), by name and 6/7 other boys. English version of FIR is as under:

"Stated that I am resident of the above address. I have swift car, which I drive as a taxi and work as a driver. Yesterday, on 28.03.2023 at about 10.00/10:30 PM, I was going towards my house in my car No.HR-24T-4266. When I reached in Mahavir MC street, 4/5 bikes came from the front side and the boys riding on them stopped my car by placing their bikes in front of my car. One of the boys named Aman son of unknown, resident of Guru Teg Bahadur Nagar Sirsa, Sunny son of unknown and Mannu son of unknown, residents of Valmiki Mohalla Sirsa and 6/7 other boys were with them, whom I can identify if they come in front of me. Aman, resident of Guru Teg Bahadur Nagar Sirsa called me by my name and asked me to come out of the car, so I got down from the car. At that time my friend Gurpreet Singh son of Sujeet Singh, resident of Guru Teg Bahadur Nagar Sirsa was also in the car, who remained sitting in the car and Aman started manhandling with me and an unknown boy had a Datar in his hand, whom Aman called by the name of Anju and said Anju hit him, upon which the boy named Anju hit the Datar on my left hand and I fell down and my friend came out of the car to rescue me and all of the above mentioned also manhandled with my friend and beaten him and also vandalized my car with bricks and Datar and when I shouted for help, all of them along with their weapons rode on their motorcycles and fled from the spot. Then my brother Rasveer Singh arranged for vehicle and got me admitted to Government Hospital and the doctor there treated me. Due to severe pain in my injury, I admitted in Sanjivani Hospital Sirsa from Government Hospital Sirsa on the same night. During that fight I had about 15 grams of gold chain in my neck and about 10-12 thousand rupees in my pocket, which I could not find and fell somewhere during the fight. Aman, resident of Guru Teg Bahadur Nagar, Sunny, Mannu and Anju, residents of Valmiki Mohalla Sirsa and 5/6 others have caused injuries to me without any reason and damaged my car by breaking it. Legal action be taken against all of the above. I got recorded my statement in my full conscious state in Sanjivani Hospital Sirsa, heard, which is correct. Sd/- Lakhwinder Singh."

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. Allegations against the petitioner are that he along with co-accused and 6-7 other boys attacked on the complainant and the petitioner hit datar on the left hand due to which the complainant fell down and the said injury is grievous in nature.
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 paragraph 5 of the bail petition, the petitioner has been in custody since 10.08.2024. Per the custody certificate dated 29.03.2025, the petitioner's total custody in this FIR is 07 months and 20 days.

9. 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.

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:

	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

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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 Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.