

CRM-M-46334-2024

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

CRM-M-46334-2024
Reserved on: 22.04.2025
Pronounced on: 29.04.2025

Gur Iqbal Singh @ Gur Iqbal Singh Var ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vivek. K. Thakur, Advocate
for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
2	03.01.2023	Dhilwan, Dist. Kapurthala, Punjab	364A IPC and offence under Sections 343, 212, 120B, 148, 149 IPC and 25/27/54/59 of Arms Act 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 12 of the bail petition as well as custody certificate dated 21.04.2025, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	78	26.04.2016	482/411/392/382 IPC and 25/54/59 of Arms Act	Division No.8, Jalandhar
2	50	22.03.2016	379 IPC	Phillaur
3	7	04.02.2023	21/61/85 of NDPS Act	Dhilwan
4	3	27.01.2023	387/506 IPC	Begowal
5	25	13.06.2009	304B/201/34 IPC	Dhilwan
6	73	11.04.2018	21/29 of NDPS Act	City Kapurthala
7	82	14.05.2014	188 IPC and 52A of Prison Act	Civil Lines 8
8	02	03.01.2023	364A, 120B, 343, 212, 148, 149 IPC	Dhilwan (UI)
9	122	03.08.2013	42 of Prison Act	Kotwali, Kapurthala
10	25	08.02.2012	392, 34 IPC	City Kapurthala
11	152	07.08.2021	379, 411 IPC and	Subhanpur (UT)

		25/54/59 of Arms Act	
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3. The facts and allegations are being taken from translated copy of the FIR, which reads as follows:

“It is submitted that the brief facts of the case are that Si Janak Raj along with ASI Murta Singh 218/Kapu., ASI Sarabjit Singh 439/Kapu., L/ASI Lakhwinder Kaur 1878/TTN, S/LCT Mandeep Kaur 241/Kapu., PHG Major Singh 28284, were present in the Police Station and Rajbir Kaur wife of Lakhwinder Singh resident of Gaji Gudana, Police Station Dhilwan, Distt. Kapurthala, along with her son-in-law Jagdeep Singh came to the Police Station and got recorded her statement, which reads as: Statement of Smt. Rajbir Kaur wife of Lakhwinder Singh, resident of Gaji Gudana, Police Station Dhilwan, District Kapurthala, aged about 60 years. Stated that I am resident of the aforesaid address and my husband Lakhwinder Singh is doing the agricultural work. I have three children. My elder daughter namely Ranjit Kaur is married with Jagdeep Singh resident of Village Singha, PS Labda, Distt. Jalandhar. My elder son Sukhjinder Singh is residing in USA from the last 10 years and my younger son Harjinder Singh went to USA from the last 05 years and only I and my husband are residing in the house. Today on 03.01.2023 in the morning at about 08:00 AM, I went to Gurudwara Sahib and due to the fact that Akhandpath was being recited in the Gurudwara Sahib, I started serving there and at about 02:00 PM, my uncle father-in-law Surinder Singh, informed me that their fodder cart was down warded lying on road and in the meantime, Lakhwinder Singh, Reciter (Granthi) of Gurudwara Sahib, also reached at the spot. who made a phone call on my husband's mobile no.97793-96306 and my mobile No.7347253810, but both the said phones were found switched off. Thereafter, my son-in-law Jagdeep Singh resident of Singha Jalandhar, has informed my younger brother-in-law Palwinder Singh @ Laddi that he had received a phone call from Sukhjinder Singh from USA that someone has kidnapped the father and the kidnapper has made a ransom call of Rs.3.00 crores from him and they are saying that if you want to release him from captivity, then arrange the money and he also threatened him with dire consequences if the matter was disclosed to anyone. My son-in-law had disclosed that when he earlier received the phone call, at that time, Daddy had asked him to talk with Var Sahib but no talk could be happened and the call cut off. The complete name of Var is Guriqbal Singh Var son of Nirmal Singh resident of Gaji Gudana and he has kidnapped my husband in black colour safari

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car. I have enquired about the same from the village that her husband had been kidnapped for ransom money and we had not reported the matter to the police due to fear. Now, I along with my son-in-law Jagdeep Singh and other respectable persons have come before you for reporting the matter. Her statement was got recorded and the same was read over to the complainant and on finding her statement to be correct, she appended her signatures on the same in Punjabi language and Jagdeep Singh, witnessed the same, which was verified by aforesaid SI.”

4. The petitioner's counsel submits that petitioner has undergone custody of more than two years. He further 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:

“ROLE OF THE PRESENT PETITIONER

24. That it is submitted that role of the present petitioner namely Gur Iqbal Singh as per the investigation and disclosure statement of accused Pawanveer Singh, is that when Vijay Kumar told Pawanveer Singh to come to Gurikbal Singh Var's(present petitioner) motor then Pawanveer Singh went there with him, where a black color Safari Car bearing registration No. PB-46-L-0097 was already parked there in which Gurikbal Singh Var (Present Petitioner), Jass, Jeeta, Harman @ Harman Jit Singh and Gurmukh were sitting and there was one CBR Motorcycle on which there were 2 unknown persons. That from the motor of Gurikbal Singh Var; Lakhwinder Singh was visible in his fields and when Lakhwinder Singh after loading cow dung cakes in his rehdi started leaving then Gurikbal Singh Var in his car sitting on the seat next to driver and Jassa Started driving the car and on the rare seat Jeeta, Harman @ Harman Jit Singh and Gurkukh were sitting. That 2 unknown persons on motorcycle were following the car and they also started following them, then they took the car towards Dhilwan Road, there near Jagjit Singh's haveli then they stopped the car in front of the Rehdi and they stopped the motorcycle at some distance.

That Gurikbal Singh Var(present petitioner) came out of the car and started talking to Lakhwinder Singh and after making him sit in the car they started moving towards highway. That after few minutes from there he

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got off the motorcycle and went home.

That on the basis of abovesaid disclosure statement the offence under Section 120-B, 148, 149 IPC were added in the present FIR and Jassa, Jeeta, Harman @ Harman Jit Singh, Gurmukh, Vijay and 2 unknown persons were nominated as accused vide DDR No. 34 dated 11.01.2023.

Role As Per Disclosure Of Accused Gurmukh Singh

That Gurmukh Singh in his disclosure stated that after making Gurikbal Singh Var(present petitioner) sit in the car, then Vijay Rio Bhiki Nangal and Jeeta Padda on CBR motorcycle went ahead and Pawanveer Singh and Gurikbal Singh Var went on other motorcycle, Jassa and Patwari went on Safari car, he alongwith Harman @ Harman Jit Singh (Present Petitioner) sat on the rare seat and Lakhwinder Singh was sitting between them. Then they took Lakhwinder Singh to Amrik Singh @ Kadda's colony and kept him there on the intervening night of 03/04.01.2023. He and Patwari used to stay with Lakhwinder Singh during the night and on the night of 03.01.2023 Vijay R/o Bhiki Nangal and Jassa Kapurthala made video by showing pistol and went from there! Vijay R/o Bhiki Nangal, Jassa Kapurthala and Harman @ Harman OK singh used to come to give them tea and food. That on 05.01.2023 at about 10/11 AM in the morning Jassa, Harman @ Harman Jit Singh, Patwari, Vijay R/o Bhiki Nangal took Lakhwinder Singh in some other car and told him that they will release him today and he does not know about the money they took for releasing him."

REASONING:

7. Allegations against the petitioner are of kidnapping. 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 and also on the undertaking given by the petitioner that he will not repeat the offence and would not involve himself in the offence where sentence is more than seven years, this Court deems it appropriate to afford an opportunity to the petitioner to mend his ways.

8. Per paragraph 7 of the bail petition, the petitioner has been in custody since 02.02.2023. Per the custody certificate dated 21.04.2025, the petitioner's total custody in this FIR is 02 years, 01 month & 04 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.

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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

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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 repeats the offence and indulges himself in the offence where the sentence is more than seven years, 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.

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

(ANOOP CHITKARA)
JUDGE

29.04.2025

anju rani

Whether speaking/reasoned: Yes

Whether reportable: No.