

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59038-2024
Reserved on: 18.03.2025
Pronounced on: 28.03.2025

Ashish ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gaurav Vir Singh Behl, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
94	03.05.2024	Titram, District Kaithal	148, 149, 323, 307, 506, 120-B IPC (Section 325 IPC 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. In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“I am a resident of above name and address and do agriculture work. We are two brothers. Eldest is Ankush and I am younger than him. About 9 12 acres of cultivable agriculture land of Ram Narain son of Ravi Ram of our village is situated on Narwana road near the culvert. Last year, this land had been taken by Mehar Singh son of Punjab Singh on lease. This year my father had taken this 95 acres of land from Ram Narain on lease. Me and my brother Ankush knew that Mehar Singh would not vacate this land and Shilu son of Mehar Singh had stated to my brother Ankush that if you will take the land of Ram Narain on lease you will not be allowed to sow this land. Today, my brother Ankush had stated that let us go to see that land which has been taken on lease from Ram Narain, Today, at about 10.20 AM. I on my motorcycle with my brother Ankush along with 2-

3 boys in Ritz Car No. HR-06B-0805 had gone to the field At about 10.30 A.M., when we had reached the fields of Ram Narain and I had shown the field to my brother Ankush after that I came on my motorcycle to Titram turning from where my uncle Jasmer took my motorcycle and went away. At about 1.20 P.M. I had called my cousin brother Aman son of Balwan and my cousin brother came to me on his motorcycle No. HR-08-1802 make Hero Honda Splendor. At about 1.30 P.M. I and my cousin brother Aman proceeded to village Titram on our motorcycle and motorcycle was being driven by my brother Aman I was pillion rider thereon and when we had crossed about 100 meters from 'Apna Dhaba NH-152 towards Titram turning, in the meantime, a Creta car bearing registration No. HR-14P-0270 of white colour came from our opposite direction being driven in a wrong side and rashly and negligently. The driver thereof with an intention to kill me directly struck the car against my motorcycle as a result of which I and my brother Aman fell down from the motorcycle towards the divider and we both brothers due to fear fled away from there in different directions towards fields. From the car 5-6 boys alighted and followed me with lathis and gandasis Out of them, I identify Shilu, son of Mehar Singh. While running away I fell down. Thereafter, Sushil alias Shili with an intention to kill me gave a gandasi blow on my head and out of 5-6 boys, Ashish (Present petitioner) son of Suresh rio Buda Khera gave a gandasi blow on my right leg below the knee and other boys caused injuries with Dandas. I can identify them if brought before me. The passerby also prepared Video of this occurrence. I raised the alarm of 'Mar Diya Mar Dia. On hearing the same, people from the nearby fields and passersby came. On seeing them, the assailants along with their respective weapons fled away in the Creta vehicle and while going away stated that if you have sown the land taken on lease by you, you will be killed. Sushil @ Shilu, Ashish and 5-6 boys with an intention to kill caused injuries to me. Thereafter, my brother Aman arranged a private vehicle and got me admitted in Govt. Hospital Kaithal where my treatment is going on. Legal action be taken against all of them.'"

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. The narration of the incident as made by the victim clearly point out that petitioner was member of unlawful assembly but object and intention was to brutally assault the victim Mohit but the fact remains that the injury attributed to the petitioner was of giving gandasi blow on the leg below knee. In addition to that, petitioner is in custody for 07 months and 07 days as on 10.12.2024 and as on date, the total custody would be around 11 months. Thus, by analyzing the nature of injury inflicted by the petitioner vis-a-vis custody, further pre-trial incarceration would not be justified.

7. Earlier this Court had dismissed the petitioner's bail because of his involvement in the crime but at that time, the custody was very less and this Court had not discussed the role attributed to the petitioner. Now the changed circumstance is prolonged custody vis-a-vis injury attributed to the petitioner.

8. 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.

9. Per paragraph 16 of the bail petition, the petitioner has been in custody since 03.05.2024.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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)	

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

16. 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.

17. 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 (Cr.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

18. 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.

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 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.

21. *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.*

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 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.

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

(ANOOP CHITKARA)
JUDGE

28.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.