

317 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23823-2025
Reserved on : 07.07.2025
Pronounced on: 31.07.2025

HOSHIYAR SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikas Lochab, Advocate and
Mr. Madhav Singh Mogha, Advocate for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0130	15.11.2024	Nizampur, Narnaul	308(3)/324(5)/326/(G)/351(3)/ 3(5) of BNS, 2023

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 15 of the bail petition, the petitioner has no criminal antecedents.
3. The facts and allegations are being taken from the translated copy of FIR (Annexure P-1), which reads as follows:

“Registering a case for setting the fire on the liquor shop. That I am Vijay Singh son of Atar Singh, resident of village Pawera. I have taken the liquor vend at Bayal border from Samay Singh. This shop is running under my supervision. This shop is on the border of Bayal village. Dashrath son of Bahadur Singh of village Bayal is appointed as salesman on the liquor vend. On the night of 13/14.11.2024 at around 11.15 pm, three boys came to the shop on a motorcycle and poured petrol from outside the liquor vend and set the polythene cartoon on fire. When the flames of fire went inside, the salesman Dashrath Singh, who was sleeping inside, somehow opened the door (shutter) and saved his life and came out, by then those boys had fled from there. Dashrath called me on my phone and told me that someone has set fire upon the cartoon on both sides from outside of the vend. I have saved my life with great efforts and came out. You are requested to come. When I reached

there, the salesman Dashrath was standing outside. When I looked inside the shop, two boxes of Desi Puwa and one box of Desi liquor had burnt to ashes. And the cartoon were completely burnt. Then I told my partner, and on my mobile number 9416724955, on 13.11.2024, between 7.30 and 8.00, I received a call from mobile number 9468298537 saying that I am Narendra alias Nariya village Panchnauta. My men will come to your shop and you arrange the commission. And give us 30,000 rupees per month to run the liquor vend. After that when I refused, he threatened me to face the dire consequences. Now I have verified that the fire was set at our cartoon by Narendra alias Naria along with others. Therefore, appropriate legal action should be taken against Narendra alias Narya and his associates. Justice may kindly be done. It will be highly grateful to you.”

4. Counsel for the petitioner submits that the name of the petitioner was surfaced on the basis of disclosure statement of the co-accused, namely, Narender @ Naria. Neither the petitioner was present at the spot nor he put on fire the liquor vend nor he made any phone call and nothing has been recovered from him. 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. He also seeks bail on the ground of parity with the co-accused Narender @ Nariya, who was granted bail by the Sessions Judge, Narnaul vide order dated 22.01.2025.

5. The State's counsel opposes bail and refers to para 12 of the status report, which read as follows:

“That the name of the petitioner has surfaced in the disclosure statement of Co-accused Narender @ Nariya (Annexure R-1) wherein he has admitted his involvement in the present crime alongwith the petitioner and other co-accused persons namely Aditya @ Pepsu and Naksh @ Kittu. During the course of investigation, it has been established that in the intervening night of 13/14:11.2024, at about 11:15 PM, three boys (accused Hoshiyar i.e. the petitioner and co-accused Aditya @ Pepsu and Naksh @ Kittu) came on motorcycle and put on fire the liquor vend by pouring the petrol. The incident was captured in CCTV camera installed there and on perusal of the CCTV footage, it revealed that petitioner is clearly visible in the said CCTV footage. It is clearly visible in the CCTV footage that petitioner and two other accused came on a motorcycle and petitioner was having bottle in his hand and he poured petrol on the place of occurrence and other accused had set on fire the alleged place of occurrence and third accused was also there. It is pertinent to mentioned here that the petitioner has played an active role in commission of the present crime and as such he has committed the offence the punishable u/s 308(3), 324(5), 326(G), 351(3), and 3(5) of BNS which is serious offence.”

REASONING:

6. Petitioner was clearly visible in CCTV footage having bottle in his hand. No doubt, his name cropped up in disclosure statement. Accused who disclosed petitioner's name has already been granted benefit of bail. 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.

7. Per paragraph 8 of the bail petition, the petitioner has been in custody since 04.01.2025.

8. 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 further pre-trial incarceration at this stage.

9. 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 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.

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 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.

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

15. 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.

16. 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."

17. 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.

18. The significant consideration for granting bail is that the Court aims to give the petitioner another chance to course-correct, reform, and reintegrate into the community as an ideal citizen. To ensure that the petitioner also abides by the assurance made on the petitioner's behalf by not repeating the offence or indulging in any crime, it shall be desirable to impose the following additional condition.

19. **The bail is conditional and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may 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.

31.07.2025
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(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No