

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

CRM-M-64615-2024
Reserved on: 20.03.2025
Pronounced on: 28.03.2025

Arshdeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.S. Saini, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
85	14.08.2024	Kalanaur, District Gurdaspur	115(2), 118(1), 191(1), 190 of BNS (Section 118(2) BNS 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 13 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	0035	13.05.2023	323, 452, 148, 149 IPC	Kalanaur
2.	0062	30.08.2024	27(a), 29 of NDPS Act	City Zira

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

“5. That it is humbly submitted that the brief facts of this case are that the complainant Malkit Singh has got recorded his statement to ASI Des Raj, Incharge Police Post Bakhsawal of Police Station Kalanaur on 14.08.2024. That on 10.08.2024 at about 8:00 PM, he received telephonic call of her mother in law Amarjit Kaur and she asked him to reach Kalanaur. When he reached near godown of Indane Gas Agency near the house of his in laws, he saw that Arshdeep Singh (petitioner) son of Kulwant Singh armed with word,

Sarbjit Singh son of Amrik Singh armed with Gandassi, Ladi son of Amrik Singh armed with Sota, Jagroop Singh son of Jassa Singh armed with Gandassi, Amarjit Kaur wife of Kulwant Singh armed with Sota and Kulwant Singh son of Joginder Singh empty handed were standing there. Kulwant Singh raised lalkara to teach him a lesson for raising matrimonial dispute with their daughter upon which Arshdeep Singh (petitioner) gave sword blow on his head and Sarabjit Singh gave Gandassi blow on his head. Thereafter Jagroop Singh gave Gandassi blow near his right eye and Ladi gave Sota blow near his left ear. Thereafter Amarjit Kaur gave Sota blow on his left shoulder and Kulwant Singh gave him fist and kick blows. He raised alarm upon which all the accused ran away from the spot. Motive behind the incident is stated to be that he had filed divorce case against his wife due to which accused persons who are family members of his wife had caused him injuries.

6. That it is humbly submitted that on next date/11.08.2024, the complainant Malkit Singh got his MLR registered at Abrol Medical Centre, Gurdaspur MLC No. 1062 dated 11.08.2024 of Malkit Singh. 5 injuries were mentioned, in which injuries No. 1, 2 and 3 with Sharp Weapon and Under observations. Injuries No. 4 & 5 were inflicted With Blunt Weapon. As per the statement and MLR of the complainant, a case FIR No. 85 dated 14.08.2024 under section 115(2)/118(1)/191(3)/190 BNS Police Station Kalanaur has been registered against the 1) Sarabjit Singh 2) Arshdeep Singh (petitioner), 3) Ladi, 4) Jagroop Singh, 5) Amarjit Kaur and 6) Kulwant 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. It would be appropriate to refer to the following portions of the status report, which read as follows:

“ROLE OF THE PETITIONER

That it is humbly submitted that petitioner gave sword blow on head of the complainant. The injury inflicted by the petitioner was declared as Grievous with sharp weapon. Hence the offence under section 118(2) BNS is made out against the petitioner.”

7. Counsel for the petitioner submits that there is an explained delay of 04 days in registering the FIR. All other accused have been granted bail and he is the sole accused in custody. Counsel for the petitioner further submits that the petitioner is in custody since 26.09.2024 and both the petitioner as well as complainant are related to each other.

8. An analysis of the pleadings would lead to the following outcome. Although the evidence clearly indicates the petitioner's involvement but given the nature of injuries

attributed to the petitioner vis-a-vis custody in the present case, it is neither a case for custodial interrogation or pre-trial incarceration. Although the evidence connecting the petitioner might be sufficient for the purpose of framing of charges or launching prosecution, but is not sufficient for denying bail.

9. 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.

10. Per paragraph 9 of the bail petition, the petitioner has been in custody since 26.09.2024. Per custody certificate dated 19.03.2025, the petitioner's total custody in the present FIR is 05 months.

11. 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.

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 (CrL) 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.***

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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.