

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

CRM-M-43449-2024
Reserved on: 07.05.2025
Pronounced on: 14.05.2025

Sahil Khatak @ Bhaia ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Himanshu Chhabra, Advocate
for the petitioner.

Mr. Jasdev Singh Thind, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
109	24.05.2024	City Sangrur, District Sangrur	307, 323, 324, 506, 148, 149 IPC

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 17 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from translated version of FIR, which reads as follows:

“Statement of Jaspal Kumar son of Sh. Satpal resident of Hargobindpura Basti, College road. Sangrur, aged about 52, Mob. No.76967-00041, stated that I am resident of the above said address and do agriculture work. We are two brothers and two sisters. All are married. I and my elder brother Charanjit Singh are residing together with families. My brother Charanjit Singh have got three sons. Yesterday on 23.05.2024, my nephew Jagpreet Sharma after taking meal came out of house for making round to bitch, it was about 9.15 P.M. that at that time I was also following him. My nephew when was standing near Gobind Furniture House, Ambedkar Nagar, Sangrur, before my eyes, youngman riding on 4 motorcycles from Aare Wali Gali by raising lalkara came from amongst I, knew Vansh son of Kuku resident of Partap Nagar, Sangrur and Love son of Ravi resident of Quarter No.22, Patiala Gate, Sangrur and Kaushik

resident of Patiala Gate Sangrur and remaining 9-10 are unknown persons, who after deriding motorcycles attacked my nephew Jagpreet Sharma. I saw in the lights that Vansh son of Kukku resident of Partap Nagar, Sangrur who armed with khapra attacked my nephew with intention to kill my nephew which hit at his forehead. Then my nephew Jagpreet Sharma to save his life tried to run away, then above said persons surrounded him, who surrounded him, amongst them Love son of Ravi, resident of Quarter No.22, Patiala Gate Sangrur, who was armed with khapra in his right hand attacked my nephew Jagpreet Sharma which hit at above his right eye on forehead. I ran to free him from their clutches, and raised alarm 'don't attack', then Kushik resident of Patiala Gate Sangrur, who was armed with takuya in his right hand attached my nephew Jagpreet Sharma, which hit at left leg near knee, who also slapped and gave punch blow while I was separating and I can recognize in case they are paraded before me, who continuously attacked and beat my nephew. Then Vansh who was armed with khapra attacked Jagpreet Sharma which hit on his left arm, then above said persons got fell down Jagpreet Sharma on ground, and one of them unknown persons who was armed with iron rod attacked my nephew on his back while he was lying on earth and position of his mouth was towards earth, which hid at back side of upper portion of leg. The people started gathering there. Then one known person with some sharp edge attached my nephew Jagpreet, which hit at his left hand. Besides, during beating my nephew got injury on backside of left shoulder. The above said persons hit with foot while my nephew was lying on the ground. All the above said persons while fleeing with their weapons on motorcycles threatened to kill and fled away from the place of occurrence. If the gathering of people would not have separated my nephew from above said persons, then they would have killed my nephew. Since my nephew suffered many injuries, they got my nephew admitted in Civil Hospital, Sangrur who is under treatment. He is unable to speak. Therefore, strict action against Vansh, Love, Kaushik and 9-10 unknown persons be taken and we may be got justice. I have got my statement recorded recorded with you. Sd/ Jaspal Kumar.”

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. He further seeks bail on the grounds of parity with co-accused Eaklovej, Veer Aadi, Ravi, Puneet and Arun who have been granted bail by the trial Court.

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:

“The present FIR was registered against accused Bansh Gill and Kaushak and 9/10 un-known persons on the basis of statement of Jaspal Kumar (uncle of injured Jugpreet Sharma). On the basis of statement of Injured Jugpreet Sharma, Sahil Khatak @ Bhaiya (present petitioner)

and 5 other co-accused were nominated as accused in this case. During the course of investigation, it was duly substantiated that on 23.05.2024, Jugpreet Sharma was standing near Gobind Furniture House Ambedkar Nagar, Sangrur, then accused/petitioner Sahil Khatak @ Bhaiya and his other co-accused in connivance with each other, have surrounded Jugpreet Sharma (nephew of complainant) and gave severe beatings and inflicted 7 injuries to him with deadly weapons with the common intention to kill Jugpreet Sharma. Out of 7 injuries, injury no. 1 and 4 were declared as grievous in nature. So, a specific role of the petitioner regarding attributing injury no. 5 on the left hand of Jugpreet Sharma, is found in the commission of present offence.”

7. Allegations against the petitioner are that he along with co-accused gave beatings to the complainant due to which he suffered injuries, however, the injury which has been attributed to the petitioner was not grievous in nature. Co-accused with similar role has already been released on bail. Moreover, the main accused has also been granted bail because he was a juvenile.

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 9 of the bail petition, the petitioner has been in custody since 24.05.2024. Per the custody certificate dated 06.05.2025, the petitioner's total custody in this FIR is 10 months and 16 days.

10. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, co-accused already been granted bail and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

11. 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.

12. 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.

13. 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)	

14. This order is subject to the petitioner’s complying with the following terms.

15. 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.

16. 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.

17. 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.

18. 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.”

19. 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.

20. **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.**

21. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

22. 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.

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

(ANOOP CHITKARA)
JUDGE

14.05.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.