

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51511-2024 (O&M)

Reserved on: 14.02.2025

Date of Pronouncement: 19.02.2025

Palwinder Singh alias Pappi

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Ms. Dolli Sharma, Advocate
for the petitioner(s).

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
149	7.12.2023	Raja Sansi, District Amritsar	307, 341, 427, 506, 34 IPC and 25 Arms Act (Sections 323 & 201 IPC added and Section 25- 54-59 Arms Act deleted, later on)

1. The petitioner incarcerated in the FIR captioned above, had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 9 of the bail application and the reply/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	41	2015	406, 498A IPC	Jhabal, District Tarn Taran
2.	111	2023	21, 29 NDPS Act	Rama Mandi, District Jalandhar
3.	53	2022	323, 324, 325, 341, 427, 506, 295, 148 and 149 IPC	Lopoke, District Amrtisar
4.	24	1.2.22	323, 324, 452, 506 IPC and 25 Arms Act	Division no.8, Jalandhar City

3. The facts and allegations are being extracted from the reply filed by the State, which reads as follows:

"3. That it is submitted that as per the report furnished by Station House Officer (SHO), Police Station, (P.S.) Rajasansi, Amritsar (Rural), the aforesaid FIR No. 149 dated 07.12.2023 (supra), was registered on the basis of

statement of the Complainant Sukhwant Singh, wherein it was alleged that he serves in Rimple Wine Group, circle Ajnala, Amritsar. On 27.11.2023 at about 09:15 PM, he and his colleague Karanpreet Singh by riding on firm's vehicle Bolero Camper bearing No. PB02-DZ-69831, which was being driven by him, were going to village Kohali, PS Lopoke for supply of liquor. At that time, Palwinder Singh @ Pappi (present petitioner) and Palwinder Singh @ Pinder S/o Billa Singh, who were in an inebriated condition came to them and asked them why they had parked their vehicle there and started abusing them. They (complainant) were going back to Rajasansi on their vehicle via village Bhattewad then they (petitioner) chased them in one car and came after them at village Bhattewad. At the time of entering village Bhattewad, they (petitioner) brought their car in front of their (complainant) Bolero camper and stopped it forcibly. They (complainant) alighted from their vehicle and ran away in fear and on the way they (complainant) informed his cousin Akashdeep Singh over phone that they complainant had altercation with the above said persons (petitioner) who were chasing them to attack them. In the meantime, Akashdeep Singh also came there. The above said persons caused him injuries and vandalized their (complainant) vehicle and fired straight fires with an intention to kill them (complainant). Thereafter they (complainant) can away from the spot in fear and saved their lives. The respectable persons of village Bhattewad and village Kohali tried to make compromise between them, which could not be arrived at. Therefore, the instant FIR No. 149 dated 7.12.2023, under Section 307/341/427/506/34 IPC, 25 Arms Act, Police Station Rajasansi, Amritsar Rural was registered.”

3. 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. She further submits that the main accused Palwinder Singh @ Pinder has already been granted the concession of anticipatory bail vide order dated 6.3.2024 passed by this Court in CRM-M-1276-2024 and the petitioner is not only entitled for same benefit on parity, but his case is on better footing.

4. The State’s counsel opposes bail and refers to the reply.

5. It would be appropriate to refer to the following portions of the reply, which read as follows:

“10. That it is submitted that at the time of commission of crime, the present petitioner Palwinder Singh @ Pappi was armed with baseball and he vandalized Bolero Camper of the complainant and caused injuries to the injured Akashdeep Singh with his baseball. The co- accused Palwinder Singh @ Pinder with common intention of both of them had fired gunshots from DBBL gun at the complainant party with an intention to kill them. However, they remained unhurt.”

6. 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 11 of the bail petition, the petitioner has been in custody since 7.12.2023. Per the custody certificate dated 17.01.2025, the petitioner's total custody in this FIR is 1 year, 1 month and 2 days.

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, subject to the compliance of terms and conditions mentioned in this order.

9. Admittedly, co-accused of the petitioner has already been granted anticipatory bail.

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. 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 Illaqa 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. 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 (Cr.) 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. **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.**

19. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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

February 19, 2025
AK

Whether speaking/reasoned : Yes
Whether reportable : Yes