

BA-142-2026 State Vs Nishan Singh

FIR No.04 dated 18.01.2025

Under Section 25/27 of Arms Act

Police Station Mallanwala

Present: Applicant/accused with counsel Sh. Fatehjeet Singh Gumber,
Advocate.

Sh. Harfateh Singh, Ld. APP for the State.

1. This order of mine shall dispose off bail application moved
by Ld. Counsel for the accused/applicant Tirath Singh.

2. Applicant/accused, aforesaid, has filed the present bail
application with avernments that the applicant has been falsely implicated
in the present FIR and he was declared proclaimed person vide order
dated 11.11.2024. It is further averred that compromise has been effected
between the complainant and accused party and ultimately the applicant
preferred petition before the Hon'ble High Court bearing No.CRM-M-
1204 of 2026 to quash the PO order passed by the concerned Court and
vide order dated 15.01.2026 passed by the Hon'ble High Court, asked the
applicant to surrender himself before this Court and moved application
for bail within seven days from the date of order. It is further averred that
lateron the applicant moved CRM before the Hon'ble High Court for
extension of said time period, which was also allowed vide order dated
24.02.2026 and further seven days time has been given to the applicant to
surrender before this Court. It is further averred that he is innocent person

and has never committed the offence as alleged in the FIR because non-applicant/co-accused Sukhwinder Singh had purchased 11 kanals 06 marlas 06 sarsahi land from the complainant and he had paid the entire consideration to the complainant, who had given the possession of said land to the non-applicant at the time of execution of sale deed but the complainant committed fraud by showing valuable land and gave possession of some other land having less value. It is further averred that the complainant told the non-applicant/co-accused to sell the said land to his cousin Paramjit Singh and said that due to sale of said land there is dispute between them and then an agreement to sell was executed by the non-applicant in favour of Paramjit Singh cousin of complainant regarding the aforesaid land and Paramjit Singh paid Rs.10 lakh to the non-applicant/co-accused but later-on said Paramjit Singh failed to get execute the sale deed and then the non-applicant/co-accused returned Rs.6 lakh to Paramjit Singh in the panchayat with the consent of all panchayat members. It is further averred that before returning the amount of Rs.6 lakh, the complainant started compelling the non-applicant/co-accused not to return the said amount and give half of the amount to the complainant as Paramjit Singh has borrowed the same from him to which the non-applicant/co-accused refused but the complainant again started pressurizing to return the land sold by him to which the non-applicant/co-

accused also refused, so the complainant got lodged this false FIR due to political pressure. It is further averred that there are previous grudge between the complainant and applicant and the applicant has no concern with the alleged crime and nothing is required to be recovered from the applicant nor the applicant is required for custodial interrogation. It is further averred that the declaration of the applicant as Proclaimed Person by the Learned JMIC, Zira is totally wrong and he has been declared PO without complied the statutory provisions of law and no such notice nor any proclamation warrants was served upon the applicant and the police official wrongly recorded his statement before the JMIC, Zira that the proclamation has been executed, as such the order dated 11.11.2024 is totally wrong, illegal, arbitrary and void. It is further averred that no evidence is available with the Investigating Officer to connect the applicant with the alleged occurrence and now compromise has been effected between the parties to the FIR, so the custody of the applicant is not required. It is further averred that the trial will take long time and no useful purpose will be served by keeping the applicant in jail and there is no apprehension of absconding of the applicant or tempering with the prosecution evidence and he shall not misuse the concession of bail and even he is ready to furnish his surety/bail bonds to the satisfaction of this

Court. Lastly, prayed that applicant/accused may kindly be released on bail in this case, till the decision of the case.

3. Notice of present bail application was issued to State and upon notice, Learned APP appeared on behalf of State. Learned APP stated at bar he does not want to file written reply and argued orally stating that the applicant/accused did not deserve for concession of bail and prayed for dismissal of the application.

4. On the other hand, Learned counsel for the applicant/accused has argued that the applicant has been falsely implicated in the present FIR and he was declared proclaimed person vide order dated 11.11.2024. It is further contended that compromise has been effected between the complainant and accused party and ultimately the applicant preferred petition before the Hon'ble High Court bearing No.CRM-M-1204 of 2026 to quash the PO order passed by the concerned Court and vide order dated 15.01.2026 passed by the Hon'ble High Court, asked the applicant to surrender himself before this Court and moved application for bail within seven days from the date of order. It is further contended that lateron the applicant moved CRM before the Hon'ble High Court for extension of said time period, which was also allowed vide order dated 24.02.2026 and further seven days time has been given to the applicant to

surrender before this Court. It is further contended that he is innocent person and has never committed the offence as alleged in the FIR because non-applicant/co-accused Sukhwinder Singh had purchased 11 kanals 06 marlas 06 sarsahi land from the complainant and he had paid the entire consideration to the complainant, who had given the possession of said land to the non-applicant at the time of execution of sale deed but the complainant committed fraud by showing valuable land and gave possession of some other land having less value. It is further contended that the complainant told the non-applicant/co-accused to sell the said land to his cousin Paramjit Singh and said that due to sale of said land there is dispute between them and then an agreement to sell was executed by the non-applicant in favour of Paramjit Singh cousin of complainant regarding the aforesaid land and Paramjit Singh paid Rs.10 lakh to the non-applicant/co-accused but later-on said Paramjit Singh failed to get execute the sale deed and then the non-applicant/co-accused returned Rs.6 lakh to Paramjit Singh in the panchayat with the consent of all panchayat members. It is further ave contended that before returning the amount of Rs.6 lakh, the complainant started compelling the non-applicant/co-accused not to return the said amount and give half of the amount to the complainant as Paramjit Singh has borrowed the same from him to which the non-applicant/co-accused refused but the complainant

again started pressurizing to return the land sold by him to which the non-applicant/co-accused also refused, so the complainant got lodged this false FIR due to political pressure. It is further contended that there are previous grudge between the complainant and applicant and the applicant has no concern with the alleged crime and nothing is required to be recovered from the applicant nor the applicant is required for custodial interrogation. It is further contended that the declaration of the applicant as Proclaimed Person by the Learned JMIC, Zira is totally wrong and he has been declared PO without complied the statutory provisions of law and no such notice nor any proclamation warrants was served upon the applicant and the police official wrongly recorded his statement before the JMIC, Zira that the proclamation has been executed, as such the order dated 11.11.2024 is totally wrong, illegal, arbitrary and void. It is further contended that no evidence is available with the Investigating Officer to connect the applicant with the alleged occurrence and now compromise has been effected between the parties to the FIR, so the custody of the applicant is not required. It is further contended that the trial will take long time and no useful purpose will be served by keeping the applicant in jail and there is no apprehension of absconding of the applicant or tempering with the prosecution evidence and he shall not misuse the concession of bail and even he is ready to furnish his surety/bail bonds to

the satisfaction of this Court. He prayed that accused/applicant be admitted on bail.

5. Heard on the rival contention of the accused as well as APP for the state. Record received and perused. Now, perusal of the record shows that the main challan under Section 109 BNS and 25/27/54/59 of Arms Act, has already been presented before the Court, wherein the accused Tirath Singh and Sukhwinder Singh were mentioned as Proclaimed Person in the column No.2 of the main challan. Further perusal of the file shows that complainant Kulwant Singh son of Jarnail Singh recorded his statement before the Court and then, the present FIR has been lodged against the accused persons. As per the version of challan, the complainant Kulwant Singh stated that he has purchased land measuring about 11 kanal 07 marle from Sukhwinder Singh son of Piara Singh and amount of Rs.2,50,000/- was balanced towards Sukhwinder Singh and after receiving above said amount, then the possession was handed over to Sukhwinder Singh. Thereafter, panchayat was convened for three times and on 10.07.2024 at about 12:00, it was decided in the house of Harbhajan Singh that Sukhwinder Singh will pay the remaining amount and will take the possession of land. Then at about 05/05:30 PM, Sukhwinder Singh and his son Tirath Singh on their Tractor Swaraj 855 entered into his land and cultivating the land. Then, complainant reached

at the spot and told Sukhwinder Singh that as per the decision of panchayat, to give amount of Rs.2,50,000/- and then cultivate the land but Sukhwinder Singh raised lalkara, “ajj is nu zameen wahuan to rokan da pata dss de.” Then, Tirath Singh stopped his tractor and two fired shots from his pistol towards the complainant with intention to kill him, out of which one shot hit into the left leg just up of the knee of complainant and second shot hit into the fingers of right hand of complainant. Then, Sukhwinder Singh again raised lalkara, “ajj is nu janno mar deh.” Then, Sukhdev Singh younger brother of complainant and Surjit Singh son of Tehal Singh came at the spot and raised hue and cry but accused Sukhwinder Singh had taken kahi from his tractor and gave a blow upon Sukhdev Singh, which hit on the left side of nose of Sukhdev Singh. Thereafter, other people gathered at the spot and accused persons fled away alongwith their tractor from the spot. Then, Harjit Singh arranged vehicle and admitted the complainant and his brother to Civil Hospital Mallan Wala and then, they referred to Civil Hospital Ferozepur.

Now, keeping in view the facts and circumstances as discussed above and also keeping in view the nature, seriousness of accusation, this court is of the considered and confirmed view that the allegations against accused/applicant are serious in nature and the gravity of offences alleged to have been committed by the accused/applicant and

moreover, the alleged **Section 109 of the Bharatiya Nyaya Sanhita (BNS) 2023** (Section 307 of the Indian Penal Code), is exclusively triable by the Learned Court of Sessions. So, in view of the above said observations, this court is opined that the above named accused/applicant is not entitled to grant of concession of bail. Hence, the bail application of accused/applicant Tirath Singh son of Sukhwinder Singh is hereby **dismissed**.

In this regard, this court places reliance upon the landmark judgment titled as **Prahlad Singh Bhati Vs NCT, Delhi Crl Appeal 324 of 2001 (2001) 4 SCC 280, D/d 23.03.2001**, wherein the **Hon'ble Supreme Court** opined as under:-

“Even though there is no legal bar for a Magistrate to consider an application for grant of bail to a person who is arrested for an offence exclusively triable by a Court of Session yet it would be proper and appropriate that in such a case the Magistrate directs the accused person to approach the Court of Session for the purposes of getting the relief of bail. Even in a case where any Magistrate opts to make an adventure of exercising the powers under Section 437 of the Code in respect of a person who is suspected of the commission of such an offence, arrested and detained in that connection, such Magistrate has to specifically negate the existence of reasonable ground for believing that such an

accused is guilty of an offence punishable with the sentence of death or imprisonment for life. In a case where the Magistrate has no occasion and in fact does not find, that there were no reasonable grounds to believe that the accused had not committed the offence punishable with death or imprisonment for life, he shall be deemed to be having no jurisdiction to enlarge the accused on bail.

*“**Powers of the Magistrate**, while dealing with the applications for grant of bail, are regulated by the punishment prescribed for the offence in which the bail is sought. Generally speaking if punishment prescribed is for imprisonment for life and death penalty and the offence is exclusively triable by the Court of Session, the Magistrate has no jurisdiction to grant bail unless the matter is covered by the provisos attached to Section 437 of the Code. The limitations circumscribing the jurisdiction of the Magistrate are evident and apparent. Assumption of jurisdiction to entertain the application is distinguishable from the exercise of the jurisdiction.”*

Present papers are ordered to be attached with the other papers.

Pronounced:

Date of Order : 19.03.2026

Pritpal Singh

Stenographer-III

(Gurpreet Kaur), PCS,
Judicial Magistrate 1st Class,
Zira-UID No.PB0471