



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

124

**CRM-M-56269-2025 (O&M)
Date of decision: 01.04.2026**

DAVENDER SINGH ALIAS DAVINDER SINGHPetitioner

VERSUS

STATE OF HARYANARespondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Deepender Singh, Senior Advocate with
Mr. Dushyant Rana, Advocate,
Mr. Nipun Gupta, Advocate and
Mr. Meyank Sarpal, Advocate for the petitioner.

Ms. Chhavi Sharma, Asstt. A.G. Haryana assisted by
ASI Jasbir Singh.

VINOD S. BHARDWAJ, J. (Oral)

CRM-13802-2026

Allowed, as prayed for, subject to all just exceptions.

Main case

1. The instant first petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for the grant of regular bail in case bearing FIR No. 31 dated 15.05.2025, registered under Section(s) 152, 238(B) of BNS, 2023 and Section 5 of Official Secret Information Act, 2023 at Police Station Cyber Crime Kaithal, District Kaithal.
2. The present First Information Report has been registered on the statement of Sub-Inspector Sumit Kumar of the Special Detective Unit. The FIR emanates from the disclosure statement of the petitioner-Davender Singh, in FIR No. 108 dated 11.05.2025 registered under the Arms Act for

having uploaded his own photographs with pistols and gun on Facebook. It is stated in the complaint that on 15.05.2025, the police party interrogated the aforesaid accused, Davender Singh, who, during the course of interrogation, suffered a disclosure statement admitting his connections with certain persons based in Pakistan. He disclosed that, in November 2024, he had travelled to Pakistan on a religious trip, where he came into contact with some persons who identified themselves as Shah Ji, Rasid Mohammad, Arslan and a female named Riza. It is averred that these persons facilitated his stay and other arrangements and were associated with espionage activities. The accused is further stated to have disclosed that, upon his return to India, he remained in contact with the aforesaid persons through social media platforms, including WhatsApp and Snapchat, and, at the instance of one Shah Ji, transferred a sum of Rs.1,500/- to a person connected with them. It is alleged in the complaint that the said individuals were associated with Pakistan's intelligence agencies and that the accused had been recording the movements of the Indian Army and collecting other confidential information, which he transmitted to the aforesaid persons through electronic means. It is further alleged that the accused had shared sensitive information, including details relating to Army establishments at Patiala and had also attempted, at the behest of the said foreign contacts, to involve other persons in such activities. The disclosure statement further indicates that communications were exchanged through specified WhatsApp numbers and Snapchat accounts linked to the aforesaid individuals. The accused is also stated to have admitted that, apprehending his arrest, he deleted certain data from his mobile phone so as to destroy evidence of his

communications with the said persons, though certain original photographs remained stored on his social media accounts. He is alleged to have also admitted that the information shared by him posed a serious threat to the sovereignty, integrity, unity and security of the country. The said disclosure statement was recorded and signed by the accused as well as by the attesting witnesses, namely EASI Ajeet Singh and Head Constable Rajbir Singh. On the basis of the aforesaid disclosure and the material emerging therefrom, it was found that a cognizable offence was made out for offence under Section 152 of the Bharatiya Nyaya Sanhita, 2023 and Section 5 of the Official Secrets Act, 1923. Accordingly, the information was forwarded to Police Station Cyber Crime, Kaithal, whereupon the present FIR came to be registered.

3. Learned Counsel appearing on behalf of the petitioner contends that one FIR No. 108 dated 11.05.2025 had earlier been registered against the petitioner for offence under Section 25(1-AAA), 25 (1-B) (a) and 29 (B) of the Arms Act, 1959 at Police Station Guhla, on the basis of secret information alleging that the petitioner had uploaded his photographs with a pistol and a gun on his Facebook account. It is submitted that the petitioner had been taken in custody in connection with the said case notwithstanding the fact that the said photographs had been uploaded as far back as in the year 2018 and that a period of more than 07 years had elapsed between the said act and the registration of the FIR. Learned counsel further contends that the petitioner was granted the concession of regular bail vide order dated 15.05.2025. His mobile phone had already been taken into police custody in connection with above FIR No. 108. In it submitted that on the

very same day, after the order granting bail was passed in favour of the petitioner, the respondent-authorities proceeded to register the present FIR on the alleged disclosure by the petitioner to the effect that he had been conversing with on “Shah Ji” in Pakistan and had allegedly shared intelligence information with them pertaining to the movement of Indian Army.

4. Learned Counsel contends that as a matter of fact, the petitioner had visited Pakistan in the month of November, 2024, alongwith a religious congregation and for pilgrimage to Kartarpur Sahib and Nankana Sahib. It is submitted that, in terms of the conditions governing the visa, the petitioner remained confined to the Gurudwara premises and was under the constant care and supervision of the Gurudwara management during the entirety of his stay and the petitioner never indulged in any illegality.

5. It is further contended that the present case is devoid of any material evidence collected in the present case. Learned counsel submits that the mobile phone of the petitioner had already been taken into police custody by the respondent-authorities in connection with FIR No. 108 and no recovery of any nature whatsoever has been effected from the petitioner in the present case. There is nothing apart from the self incriminating disclosure statement of the petitioner recorded while in custody. He further submits that as per the case set up by the respondent-authorities, there were certain phone calls between the petitioner and one Shah Ji in Pakistan and there is a solitary video depicting army vehicles. He contends that the said calls are alleged to have taken place between 18.04.2025 to 10.05.2025, whereas the military operation referred to as “Operation Sindoor”

commenced only on 09.05.2025. There is no allegation of any communication having taken place after the commencement of the said operation. It is further submitted that there is also nothing on record to suggest that the said solitary video of Indian Army vehicles, found in the petitioner's mobile phone, had ever been transmitted or shared with any person or even as to the period to which the video relates. Learned counsel thus contends that the allegation of the respondent-authorities that the petitioner shared any sensitive or confidential information with persons in Pakistan thus remains completely unsubstantiated and is not borne out from the material on record.

6. It is further submitted that no motive whatsoever has been established to suggest as to why the petitioner would have shared any sensitive or confidential information with persons in Pakistan, inasmuch as it is not even the case of the prosecution that the petitioner was either radicalized or was involved in, or had received, any pecuniary benefit or consideration for sharing such information.

7. A further argument has been raised by learned Senior Counsel that, for the initiation of proceedings under the Official Secrets Act, 1923, prior sanction of the Government of India is a mandatory precondition. It is submitted that the proposal seeking such sanction was forwarded to the Union of India in July, 2025 and that, despite the lapse of nearly 09 months, no sanction has been accorded till date. Hence, cognizance of the alleged offences cannot be taken against the petitioner, in the absence of such sanction. It is vehemently argued that even the ingredients of the offence under Section 152 of the Bharatiya Nyaya Sanhita, 2023 are not prima facie

made out against the petitioner as the provision contemplates acts of such nature as are likely to endanger the sovereignty, unity or integrity of India. He submits that the nature of the evidence collected by the respondent-authorities does not satisfy the aforesaid statutory ingredients and fails to refer to any material on the basis whereof it may, even prima facie, be assumed that the communication between the petitioner and persons in Pakistan had any bearing upon or resulted in endangerment of the sovereignty or security of the nation.

8. Learned State counsel, on the other hand, contends that the petitioner was in communication with one "Shah Ji" during the period from 18.04.2025 to 10.05.2025 and that the petitioner had been influenced by the said individual, who is alleged to be an agent of the ISI. It is further contended that, pursuant to such influence, the petitioner shared sensitive information with the said person. Hence, the offences are made out.

9. There had been a number of talks between the petitioner and said "Shah Ji", which establishes the charge against the petitioner. During the course of arguments, the following questions have been put to the State Counsel:

(i) What was the occasion to register the second FIR, once the solitary evidence is the video recording in the mobile phone of the petitioner, when the mobile phone was already in their possession in FIR No.108 (supra)?

(ii) While first offence in FIR No.108 was registered in Guhla, what were the circumstances in which the disclosure was recorded by Sub-Inspector of Police Station Cyber Crime,

Kaithal?

(iii) What was the time period for which the video was recorded?

(iv) What were the call details for the period prior to 18.04.2025 to 10.05.2025?

(v) On what basis “Shah Ji” has been assumed as an intelligence operative?

(vi) Whether the video or any other image were ever shared by the petitioner with any person?

(vii) What was the motive and whether any pecuniary gain has been received or not?

(viii) Whether any evidence, apart from disclosure of the petitioner, has been collected to corroborate the charge?

10. Learned State Counsel, however, is not in a position to refer to any specific material on the basis whereof it may be assumed that any video or photographs had been transmitted or shared by the petitioner herein with any other person, including those based in Pakistan.

11. Learned State Counsel is also not in a position to furnish any such particulars, nor could he clarify whether the said video pertained to the period between the incident at Pahalgam and/or the commencement of “Operation Sindoor” or otherwise.

12. To the question whether he had received any pecuniary benefits and/or whether any motive has been disclosed by the Investigating Agency for the petitioner to have shared the information, as alleged. State counsel submits that the petitioner had developed an affinity towards one “Shah Ji”

in Pakistan on account of his ancestral roots. However, when a specific query was put to learned State counsel as to the nature of the information allegedly shared by the petitioner with any person of dubious antecedents or involved in suspicious activities, he was not in a position to point out any specific material or evidence on record in support thereof.

13. It is further not disputed by the State that, other than FIR No. 108 and the present FIR No. 31 registered against the petitioner on 15.05.2025, the petitioner is not involved in any other criminal case. The period of custody is also not disputed.

14. Learned State Counsel also does not dispute that, till such time the prosecution sanction is obtained, the trial cannot commence against the petitioner. It is, however, contended that the investigation in the present case already stands concluded, and that Sections 3 and 4 of the Official Secrets Act, 1923 have also been invoked and added in the present case.

15. Learned counsel for the petitioner submits that the aforesaid offences, having been added at the stage of submission of the charge-sheet, may also be treated as incorporated in the headnote as well as in the prayer clause of the present petition. The prayer is accepted. Registry is directed to carry out appropriate changes.

16. Having heard learned counsel appearing on behalf of the respective parties and taking into consideration the nature of allegations levelled against the petitioner, the period of custody undergone by him, the failure to submit any evidence based response to the specific queries put forth by this Court to the State Counsel and also the fact that the prosecution sanction under the Official Secrets Act, 1923 has not yet been granted,

thereby precluding the commencement of trial, his otherwise clean antecedents and arguable issues that arise for consideration, I deem it appropriate to enlarge the petitioner on regular bail to the satisfaction of the trial Court.

17. The instant petition is accordingly **allowed** and the petitioner is ordered to be released on regular bail on his furnishing requisite bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate, concerned.

18. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

19. The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

APRIL 01, 2026

Pooja Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No