

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CNR No: PHHC010139872025

2026:PHHC:183037



203

CRM-M-5128-2025 (O&M)
Date of Decision: 22.09.2026

JASPREET SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANR.

...Respondents

CORAM: HON'BLE MS. JUSTICE NEERJA K. KALSONPresent : Mr. Vipul Babuta, Advocate
for the petitioner.

Mr. Gorav Kathuria, DAG, Punjab.

NEERJA K. KALSON, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of FIR No.24 dated 09.03.2024, registered under Sections 309 and 109 of the Indian Penal Code (hereinafter referred to as "IPC") and Section 27/30 of the Arms Act (During investigation Section 27 of Arms Act was added) registered at Police Station Talwandi Sabo, District Bathinda, as also the consequential proceedings arising therefrom, including the final report dated 17.09.2024.

2. Briefly stated, the facts giving rise to the present FIR are that on 07.03.2024, the petitioner Jaspreet Singh @ Jassi, who was stated to be under stress on account of his household circumstances, allegedly fired a shot at himself with a licensed revolver belonging to co accused Bhinder Singh @ Bhindi, with an intention to commit suicide. The petitioner thereby sustained a firearm injury and was taken for medical treatment. During the

course of investigation, the petitioner was medically examined and the injury was opined to be grievous in nature and caused by a firearm. The revolver was taken into possession, and the licence pertaining to the weapon was placed on record. Subsequently, the weapon was sent to the Forensic Science Laboratory for examination. Upon completion of investigation, challan/report under Section 173 Cr.P.C. was presented.

3. Learned counsel for the petitioner submits that the allegations in the FIR themselves disclose that the petitioner was under severe mental stress arising out of his personal and family circumstances and that the act attributed to him was an attempt to commit suicide. It is submitted that the petitioner had attempted to take his own life in the backdrop of such circumstances and that no material has been collected during investigation to show that the said act was committed otherwise than under severe stress.

4. Learned counsel for the petitioner further submits that Section 115(1) of the Mental Healthcare Act, 2017 (hereinafter referred to as "the Act") creates a statutory presumption in favour of a person who attempts to commit suicide and that there is no material on record to displace the same. It is further submitted that allegations under Arms Act, even if taken at their face value, do not disclose the statutory ingredients necessary to constitute the offences alleged.

5. *Per contra* learned State counsel opposes the prayer for quashing, submitting that the investigation stands completed and challan has been presented. It is contended that sufficient material is available on record against the accused persons, and the matter is pending consideration before the learned Trial Court. It is further submitted that the protection contemplated under Section 115 of the Act cannot be mechanically extended

to the separate offences under the Arms Act, and the material collected during investigation is required to be considered by the learned Trial Court.

6. I have heard learned counsel for the parties and have perused the material available on record.

7. The pivotal issue which arises for consideration in the present case is whether, in view of the statutory protection and presumption contained in Section 115 of the Act and in the absence of any material displacing the statutory presumption of severe stress, the prosecution of the petitioner under the provisions invoked against him can legally be permitted to continue. Before examining the issue further, it would be appropriate to reproduce Section 115 of the Mental Healthcare Act, 2017, which reads as under:-

“115. Presumption of severe stress in case of attempt to commit suicide.—(1) Notwithstanding anything contained in Section 309 of the Indian Penal Code (45 of 1860), any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code.

(2) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.”

8. The language employed in Section 115(1) of the Act assumes that the person who attempts to commit suicide is under severe stress and seeks to reduce the risk of recurrence of attempt to commit suicide. The provision opens with a non obstante clause referring specifically to Section 309 of the IPC; however, the protection which follows is expressed in terms of the person who attempts to commit suicide being presumed, unless proved

otherwise, to have been under severe stress. The said provision has to be read in conjunction with Section 120 of the Act, which gives the provisions of the Act an overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Thus, even if there are any provisions inconsistent with Section 115 of the Act, the provisions of the Mental Healthcare Act, 2017, would prevail to the extent of such inconsistency. Therefore, even if there are any provisions in any other law which may otherwise attract penal consequences in respect of an attempt to commit suicide, the protection and legislative policy embodied in Section 115 of the Act cannot be defeated by such inconsistent provisions. The provision must therefore be understood in the context of the legislative policy underlying the Act, which seeks to move away from a purely punitive response towards a person who attempts to take his own life and instead contemplates care, treatment and rehabilitation.

9. The expression employed by the legislature, when read with the statutory presumption of severe stress and the scheme of the Act as a whole, assumes particular significance. Section 115 of the Act cannot be viewed in isolation from the legislative change brought about by the Act. The statutory scheme recognises that an attempt to commit suicide may be the manifestation of severe stress and accordingly places the burden upon the prosecution to displace that presumption before penal consequences under Section 309 IPC can follow. The legislative scheme, therefore, unmistakably reflects a shift from penalisation to a therapeutic and rehabilitative approach, thereby displacing the punitive consequences that would otherwise follow under Section 309 IPC.

10. The aforesaid statutory position has to be appreciated in the

backdrop of the judgment of the Hon'ble Supreme Court in *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648, wherein the constitutional validity of Section 309 IPC was upheld. The subsequent enactment of the Act, particularly Section 115 thereof, represents a material change in the legislative approach towards a person who attempts to commit suicide. The provision has to, therefore, be understood in the context of the subsequent statutory regime which expressly recognises the presumption of severe stress and provides protection against prosecution under Section 309 IPC.

11. In *Common Cause (A Registered Society) v. Union of India*, (2018) 5 SCC 1, the Hon'ble Supreme Court, while considering the statutory scheme relating to an attempt to commit suicide, took note of Section 115 of the Act and recognised the presumption of severe stress created in favour of such person. The legislative emphasis, as noticed by the Hon'ble Supreme Court, is upon care, treatment and rehabilitation rather than punishment.

12. The aforesaid approach was further considered by the Hon'ble Supreme Court in *Ravinder Kumar Dhariwal v. Union of India*, (2023) 2 SCC 209, wherein the framework of the Mental Healthcare Act was considered in the context of dignity, autonomy and individual rights. The statutory scheme thus reflects a legislative understanding that a person who attempts to commit suicide is to be approached within a rehabilitative and rights based framework, subject to the statutory presumption being displaced by material to the contrary.

13. In the present case, the statutory presumption remains un rebutted. The prosecution case itself is that the petitioner attempted to take his own life by firing a shot at himself. Significantly, his father, in his statement recorded during investigation, attributed the act to the petitioner

being under stress on account of his personal and family circumstances. Nothing has been brought on record to displace the statutory presumption of severe stress. The protection under Section 115(1) of the Act, therefore, operates in favour of the petitioner insofar as the allegation under Section 309 IPC is concerned, and continuation of the prosecution for the said offence cannot be sustained.

14. The protection under Section 115(1) of the Act, however, does not conclude the matter. The allegations under the other penal provisions are required to be examined independently to determine whether, notwithstanding the statutory protection, the material on record discloses the essential ingredients of any distinct offence against the petitioner. The first such allegation is under Section 109 IPC.

15. Having considered the scope and effect of Section 115(1) of the Act, it is now necessary to examine whether any independent offence under the Indian Penal Code is otherwise made out against the petitioner.

16. A plain reading of the Section 109 IPC makes it evident that the said Section is attracted only where the ingredients of abetment are otherwise established. The provision necessarily presupposes an act of instigation, conspiracy or intentional aid as contemplated by Section 107 IPC, resulting in the commission of the act so abetted.

17. In the present case, however, the allegation against the petitioner is essentially that he attempted to take his own life. There is no allegation or material attributing to the petitioner any act of instigation, conspiracy or intentional aid towards the commission of an offence by any other person. The mere fact that the revolver allegedly belonged to co accused Bhinder Singh and was handed over to the petitioner cannot, in the

absence of the essential ingredients of abetment, sustain the invocation of Section 109 IPC against the petitioner.

18. The allegation under Section 109 IPC, therefore, fails on its own statutory ingredients.

19. Further, the allegations under the Arms Act, 1959, however, stand on a distinct statutory footing and must necessarily be examined independently, since the protection contemplated under Section 115 of the Act is directed towards the penal consequence contemplated under Section 309 IPC. The question, therefore, is whether the allegations and the material collected during investigation disclose the essential ingredients of the offences invoked under the Arms Act.

20. The scheme of the aforesaid provisions makes it clear that Section 27 does not penalise the use of a firearm in the abstract. Its applicability is conditioned upon the use being in contravention of a firearm in the abstract. Its applicability is conditioned upon the use being in contravention of Section 5 or Section 7 of the Act. The distinction assumes significance in view of the authoritative pronouncement of the *Hon'ble Supreme Court in Surinder Singh v. State (Union Territory of Chandigarh), 2021 INSC 790*. The Hon'ble Supreme Court, while examining the amended Section 27, noticed that the provision, after its amendment, was confined to use in contravention of Section 5 or Section 7. Consequently, the use of a licensed weapon, *ipso facto*, would not attract Section 27 of the Arms Act unless the requisite contravention of Section 5 or Section 7 is established.

21. Tested on the aforesaid parameters, the allegation in the present case is that the petitioner used the licensed .32 bore revolver belonging to

the co accused to shoot himself. There is no allegation that the weapon was a prohibited arm or that the ammunition was prohibited so as to attract Section 7. Equally, the prosecution has not identified any particular requirement of Section 5 which is alleged to have been contravened by the petitioner.

22. The mere circumstance that the firearm was licensed in the name of another person cannot, by itself, substitute the statutory requirement of establishing the particular contravention contemplated by Section 5. If the prosecution seeks to rely upon the possession or use of a firearm by a person other than the licence holder, it must at least disclose the statutory or licensing requirement which is alleged to have been violated by such possession or use. No such specific contravention is disclosed from the allegations or the material placed on record. The mere use of the revolver in the circumstances alleged, without the foundational contravention contemplated by Section 5 or Section 7 being disclosed, cannot, therefore, by itself attract Section 27 of the Arms Act.

23. Section 30 of the Arms Act, thus, contemplates a specific contravention of a condition of a licence, a provision of the Act or a rule made thereunder, for which no punishment is provided elsewhere in the Act. In *Tarlochan Singh @ Rana v. State of Punjab, (2022) 2 SCR 961*, the Hon'ble Supreme Court considered the scope of Section 30 of the Arms Act and emphasised the requirement of establishing the requisite violation before criminal liability under the provision can arise.

24. In the present case, neither the FIR nor the material placed on record identifies any particular condition of the licence, provision of the Arms Act or rule thereunder which the petitioner is alleged to have wilfully violated. There is no specific allegation identifying the particular licensing

condition or statutory requirement breached by the petitioner. The mere use of the licensed revolver, without identification of the particular statutory or licensing obligation alleged to have been breached, is insufficient to sustain the offence under Section 30 of the Arms Act.

25. The position that consequently emerges is that the statutory presumption under Section 115 of the Mental Healthcare Act remains unrebutted and operates in favour of the petitioner insofar as the alleged offence under Section 309 IPC is concerned; the allegation under Section 109 IPC lacks the necessary foundation of abetment; and the allegations under Sections 27 and 30 of the Arms Act do not disclose the specific statutory contraventions required to attract the said provisions.

26. It is in this context that the scope of the jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 assumes significance. The Court is conscious that such jurisdiction is to be exercised sparingly and with circumspection. At the same time, one of the recognised categories for exercise of such jurisdiction, as laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal, 1992 Supp. (1) SCC 335*, is where the allegations, even if taken at their face value and accepted in their entirety, do not constitute the offence alleged.

27. The present case falls within the aforesaid principle. The determination does not require any appreciation of evidence or an examination of disputed questions of fact. The conclusion follows from the statutory provisions read with the allegations contained in the FIR and the material placed on record. The presumption raised by law under Section 115 of the Act remains unrebutted; the ingredients of Section 109 of the IPC are absent; and the specific statutory contraventions necessary to attract Sections

27 and 30 of the Arms Act have not been disclosed.

28. The filing of the challan cannot alter that position. Completion of investigation and filing of a police report do not cure the absence of the essential ingredients of an offence. A criminal proceeding which is legally unsustainable at its foundation cannot be continued merely because the investigation has culminated in the filing of a challan.

29. The exercise of jurisdiction in the present case, therefore, does not involve an assessment of the ultimate truth of the allegations or the sufficiency of evidence for conviction. The issue is narrower, namely, whether, on the allegations as they stand, the law permits the petitioner to be subjected to the criminal process. On the statutory scheme and the material placed before the Court, the answer must be in the negative.

30. For the reasons recorded above, this Court finds that the statutory presumption under Section 115 of the Act operates in favour of the petitioner and has not been displaced.

31. Consequently, the present petition is allowed. FIR No. 0024 dated 09.03.2024, registered at Police Station Talwandi Sabo, District Bathinda, under Sections 309 and 109 of the IPC and Sections 30 and 27 of the Arms Act, 1959, challan dated 17.09.2024 and all consequential proceedings arising therefrom, insofar as they relate to the petitioner Jaspreet Singh, are hereby quashed.

32. Pending application(s), if any, shall also stand disposed of.

22.09.2026

Atul

**(NEERJA K. KALSON)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No