

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45042-2024
Reserved on: 12.11.2024
Pronounced on: 28.11.2024

Jasmeet Singh (minor) through Natural Guardian/Father Hazara Singh ..Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Neeraj Kalair, Advocate,
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Rajesh Kapila, Advocate and
Ms. Himani Kapila, Advocate,
for the complainant.

ANOOP CHITKARA, J.

Rapat No.	Dated	Police Station	Sections
21	06.06.2024	Sadar Gurdaspur	323, 324, 326, 458, 148, 149 IPC arising out of FIR No.59 dated 14.05.2024 under Sections 323, 324, 458, 427, 148, 149 IPC registered at Police Station Sadar Gurdaspur

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 15 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“5. That it is humbly submitted that the brief facts of this case are that the complainant Jagjit Singh son of Baldev Singh resident of Daburi, Tehsil and District Gurdaspur got recorded his statement to ASI Bakhshish Singh of Police Station Sadar Gurdaspur on 14.05.2024 that on 13.05.2024 at about 5.00 PM, he came to know that Malkit Singh son of Sulakhan Singh

had received certain injuries in the fight with Resham Singh and he took him to Civil Hospital, Gurdaspur. However, at about 9/10 PM, Resham Singh along with Kaka son of Balwant Singh @ Billa, Pritam Singh son of Dalip Singh, Balwant Singh son of Dalip Singh, Palwinder Singh son of Gurjit Singh all resident of Village Khokhar Rajputan, Dilraj Singh son of Fauja Singh resident of Village Hemrajpur and two unknown persons forcibly entered in the premises of Civil Hospital Gurdaspur who were armed with deadly weapons. They went inside the emergency room and Resham Singh gave dattar blow towards him which hit his left arm. Thereafter Kaka son of Balwant Singh gave dattar blow on Sukhwinder Singh on his forehead and Pritam Singh son of Dalip Singh gave dattar blow to Sukhwinder Singh on his head. Sukhwinder Singh fell down on the ground and Balwant Singh, Dilraj Singh and Palwinder Singh gave beatings to him with iron rods and baseball sluggers. When complainant tried to save him, Dilraj Singh also gave rod blow on his back. As per the allegations of the complainant, the accused persons also damaged the property of the hospital.”

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 his family.
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:

“10. That it is pertinent to mention here that Resham Singh son of Kashmir Singh resident of Village Khokhar Rajputan got recorded his statement to ASI Bakhshish Singh of Police Station Sadar Gurdaspur on 06.06.2024, wherein he alleged that on 13.05.2024, he was admitted in Civil Hospital, Gurdaspur and in the meanwhile Malkit Singh, Jasmeet Singh minor (Petitioner), Davinder Singh and Sukhwinder Singh all armed with dattar/rods alongwith Kulwant Singh who was empty handed came there. As per his allegations, Kulwant Singh raised a lalkara to teach him a lesson for picking up fight with them upon which Malkit Singh gave dattar blows on his right hand and left thumb. Thereafter, Jasmeet Singh (Petitioner) gave dattar blow to him which hit on his left wrist. After that Davinder Singh gave dattar blow on his right arm and Sukhwinder Singh picked

wiper lying there in the hospital and hit him with the same on his left arm. He raised alarm upon which they all ran away from the spot and thereafter he was shifted to Amandeep Hospital, Amritsar. The injury report of Resham Singh has been received from Amandeep Hospital, Amritsar vide No.AH/MAY/SR/120 dated 31.05.2024, six injuries were mentioned. Injuries No. 1, 2 & 3 were grievous in nature and injuries No. 4, 5 & 6 simple in nature. As per the MLR and statement of Resham Singh, a cross case under section 323/324/326/458/148/149 IPC was registered against 1) Malkit Singh, 2) Jasmit Singh (Petitioner), 3) Davinder Singh, 4) Sukhwinder Singh and 5) Kulwant Singh in the above said case FIR No. 59/2024 (supra) vide G.D. No. 21 dated 06.06.2024. During the investigation, the co-accused Davinder Singh, Kulwant Singh and Sukhwinder Singh have been joined the investigation in this case on 15.07.2024 by the order of Ld. Court. The co-accused Malkit Singh has been arrested in this case on 04.08.2024.

11. ROLE OF THE PETITIONER:-

It is humbly submitted that Jasmeet Singh (Petitioner) gave dattar blow to Resham Singh which hit on his left wrist. The injury No. 2 is attributed to the petitioner and grievous in nature.

12. EVIDENCE AGAINST THE PETITIONER:-

That it is humbly submitted that the sufficient evidence against the petitioner i.e. statement of the complainant in cross case."

7. There are cross-versions, and it would not be easy to accept either of them as credible at this stage, but that depends upon the conclusion of the investigation.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations, age of the petitioner and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage.

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 Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

14. During bail, the petitioner's parents shall be responsible for his desirable behavior.

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

16. 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.

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

28.11.2024
Jyoti-II

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	No.