

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48449-2024
Reserved on: 13.11.2024
Pronounced on: 29.11.2024

Sukhpal Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Brijeshwar Singh Bhalla, Advocate,
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
107	14.08.2024	Kot Ise Khan, Distt. Moga	118 (1), 115 (2), 125, 191 (3), 190, 324 BNS and Section 27 of Arms Act

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 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That brief facts of the case are that complainant got recorded his statement with the police on 13.08.2024 that he alongwith his son Jaskaranpreet Singh aged about 17 years were returning from their fields at about 10.15 PM when they reached near the fields of Jagjit Singh @ Juggu son of Ranjit Singh, then Jagjit Singh @ Juggu called the complainant and asked him to stop the motorcycle. Gurjant Singh @ Vicky son of Balkar Singh armed with dang, Sukhwinder Singh @ Laddi son of Balvir Singh armed with Dang were also accompanied with said Jagjit Singh @ Juggu. All of them were in drunkard condition and they started

arguing with the complainant and his son without any reason. Thereafter Sukhwinder Singh @ Laddi gave a blow of his dang, which hit on the motorcycle of the complainant, due to which motorcycle of the complainant was damaged. The complainant and his son alighted from the motorcycle, then Gurjant Singh gave a blow of his dang, which hit on the right eye of Jaskaranpreet Singh. With intention to save themselves, complainant and his son ran away towards their house. After reaching at their house, the complainant narrated all these facts to his father. Then father of the complainant alongwith Angrej Singh, Gurpreet Singh and Bhupinder Singh went to the house of Jagjit Singh for complaining about the same. They found that Jagjit Singh was found present at the main gate of his house. Jagjit Singh started arguing with the father of the complainant. Accused Jagjit Singh took out his revolver from his three and fired three shots in air. Pargat Singh son of Mehal Singh armed with sword, Gurjant Singh @ Vicky son of Balkar Singh armed with kirch, Sukhwinder Singh @ Laddi son of Balvir Singh armed with dang, Gurmej Singh s/o Mehal Singh armed with sword, Lakhwinder Singh s/o Balkar Singh armed with axe, Sukhwinder Singh s/o Bishan Singh armed with sword, all residents of Kot Sadar Khan, District Moga and 7/8 unknown persons came there. Accused Jagjit Singh raised lalkara and directed his companions not to allow the complainant and others to return safely. Pargat Singh gave a kirch blow which hit on the finger of the right hand of the complainant. Sukhwinder Singh gave a blow of his dang which hit on the left side of the head of complainant. Gurjant Singh @ Vicky gave a blow of his kirch which hit on the back near waist of the complainant. Accused persons have also caused injuries on persons of Man Singh, Gurpreet Singh and Bhupinder Singh. On raising hue and cry all the accused run away from the spot alongwith their respective weapons.

4. That as per MLRNo. MKS/126/2024/Moga, pertaining to Daljit Singh s/o Man Singh there were three injuries, injury no.1 was sharp and remaining injuries were simple in nature and injury no.1 was kept under observation. As per MLR No.MKS/125/2024 pertaining to Gurpreet Singh son of Ajaib Singh there were 8 injuries, on his person, out of which injuries no.1, 6 and 7 were kept under observation and injuries no.2, 3, 4 and 5 were declared as simple. As per MLR No.MKS/127/2024 pertaining to Bhupinder Singh, there were 3 blunt injuries on his person out of which injuries no.1 and 2 were kept under observation whereas injury no.3 was declared as simple. As per MLR No. MKS/124/2024 dated 14.08.2024

pertaining to Man Singh there were total 5 blunt injuries on his person and all were kept under observation. However, said Man Singh was referred to Guru Gobind Singh Medical College and Hospital by the Doctor."

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 reply.

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

"5. That on the basis of statement of Gurjeet Kaur wife of Ranjit Singh resident of Kot Sadar Khan, cross version vide DDR No.22 Dated 15.08.2024 u/s 115(2), 191 (3) and 190 BNS was registered against Man Singh s/o Mukhtiar Singh, Daljit Singh son of Man Singh, Bhupinder Singh s/o Balbir Singh and Gurpreet Singh son of Ajaib Singh with the allegations that on 13.08.2024 she was present at her house then at about 10.30 PM his son Jagjit Singh returned to house on his motorcycle. After entering into the house, he locked the door from inside. After sometime gate of their house was knocked. She saw through the window and found that Man Singh armed with Gandasi, Daljit Singh armed with Dang, Bhupinder Singh armed with Dang, son of Bhupinder Singh armed with dang, Gurpreet Singh s/o Ajaib Singh armed with dang and 8-9 unidentified persons were standing in the street and all of them were calling Jagjit Singh. Then complainant and her son opened the gate and went into street. Jagjit Singh requested said Man Singh that they will discuss the matter tomorrow. Then Daljit Singh gave blow of his dang, then Jagjit Singh immediately went into his house and locked the door from inside. Gurjeet Kaur tried to make said persons as understand, then son of Bhupinder Singh gave blow of his dang, which hit on the head of Gurjeet Kaur, due to which she fell down on the ground. Then Daljit Singh and his companions tried to enter into the house by jumping the door, then Jagjit Singh fired shots in air with his licensed weapon, then people started gathering there, due to which said accused ran away from the spot. During said occurrence Sukhpal Singh son of Bishan Singh also received injuries on his person. As per MLR of Gurjeet Kaur, there was one

blunt simple injury on her person. Whereas as per MLR of Sukhpal Singh were was one sharp injury on his person. However, said Sukhpal Singh refused to take any action against anybody regarding his injury.

8. Role of the petitioner:

Initially on 13.08.2024 at about 10.30 PM, the petitioner and his co-accused have caused injuries on the persons of Man Singh, Gurpreet Singh and Daljit Singh. At that time petitioner was armed with sword. Two injuries on persons of Man Singh were declared as grievous and said injuries were attributed to Pargat Singh and Lakhwinder Singh. Whereas, remaining injuries are simple in nature.”

7. The petitioner’s counsel submits that the following injuries are attributed to the accused:

Accused name	Weapon	Injury attributed
Sukhpal Singh	Nil	Not named in the FIR (known to each other, that is why petitioner named)

8. There are cross cases, and at this stage, it might be unsafe to assume which party was the aggressor and initiator of the occurrence.

9. 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.

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

11. 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.

12. 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.

13. 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)	

14. This order is subject to the petitioner’s complying with the following terms. 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.

15. 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 petitioner 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.

16. 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 (CrI.) 458); and Aparna Bhatt v. The State of Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.

17. 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.

18. 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."

19. 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.

20. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

21. Any observation made hereinabove is neither an expression of opinion on the

case's merits nor shall the trial Court advert to these comments.

22. 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.

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

(ANOOP CHITKARA)
JUDGE

29.11.2024
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.