

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52513-2024
Reserved on: 11.11.2024
Pronounced on: 28.11.2024

Jora Singh Gill ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Puneet Kumar Bansal, Advocate for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
90	04.07.2018	Ghall Khurd Distt. Ferozepur	324, 323, 506, 148, 149 IPC (Sections 325, 326 IPC added later on) and Sections 25, 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 13 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:

“4. That the brief facts of the case are that the complainant Balbir Singh owned land measuring 33 kanal 1 marla in village Ferozeshah. Out of the said land measuring 33 kanal 1 marla, the khasra girdawri of land measuring 27 kanal 14 marla comprised of Rect no.108, killa no.19/2(3-8) 20(8-0) 21(7-16) Rect no.109 killa no.16/1(1-0) Rect no.114 killa no.17(7-10) is recorded in the name of Jagsir Singh son of Bahadar Singh and khasra girdawri qua land measuring 5 kanal 7 marla comprised of Rect no.42 killa no.3(5-7) is recorded in the name of Gursewak Singh, Satnam Singh sons of Ujjagar Singh. It was further pleaded that the complainant is in cultivating possession of the entire land. It was further pleaded that the complainant were preparing for planting paddy, then Jagsir Singh son of

Mangal Singh armed with .12 bore Gun, Jora Singh (present petitioner) armed with Dang, Gurpreet Singh alias Gopi son of Jagsir Singh armed with Dang, Harbans Singh son of Bhag Singh armed with Dang, Gurmej Singh son of Bhag Singh armed with Dang, Kulwant Singh son of Bhag Singh, who was having Tractor Mahindra DI 265 came there and Gursharan Singh son of Kulvir Singh was also having Tractor 855 came to their fields. Jora Singh (present petitioner) raised Lalkara to apprehend them i.e. complainant party. In the meantime, Harbans Singh gave Gandasa blow to the complainant and the latter raised his right hand to save him, which fell on his thumb. Jagsir Singh threatened him with his .12 bore gun, Gurpreet Singh and Gurmej Singh also caused injuries to Gursewak Singh and Nirmal Singh with their Dang. There is order of status quo regarding the land by the Court. The accused caused injuries to complainant party with intention to take possession of their land. On the basis of above stated statement of complainant and medical report, case under Sections 324, 323, 506, 148, 149 IPC and Section 25/27/54/59 of Arms Act have been registered against the accused persons.”

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 status report, which read as follows:

“10. That one cross version was also registered vide rapat no.23 dated 04.07.2018 u/s 324, 323, 506, 148, 149 IPC and 25, 27, 54, 59 Arms Act PS: Ghall Khurd on the statement of Gursharan Singh son of Kuilbir Singh, resident of Ferozeshah, District Ferozepur against Balbir Singh son of Bahadar Singh, Satnam Singh son of Ujjagar Singh, Gursewak Singh son of Ujjagar Singh, Nirmal Singh son of Banta Singh, Jagsir Singh son of Bahadar Singh, Harjinder Singh son of Surinder Singh, Manraj Singh son of Gursewak Singh. Later-on, during investigation of the cross version, it was found to be false and as such the cross version was cancelled on 04.04.2019.”

7. The incident is more than six years old.

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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

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. 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 anticipatory 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. 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)	

13. This order is subject to the petitioner's complying with the following terms.

14. The petitioner is directed to join the investigation as and when called by the Investigator, if still investigation is pending; in case challan is filed, join the proceedings before the trial Court. 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.

15. 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.

16. 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.

17. 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.

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

28.11.2024/Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No