

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54013-2024
Reserved on: 12.11.2024
Pronounced on: 28.11.2024

Shingara Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.P.S. Pathania, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0075	10.09.2024	Taragarh, Distt. Pathankot	115 (2), 299, 3 (5) of BNS

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 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the translated copy of FIR, annexed with the petition, attached as P-1, and the relevant portion reads as follows:

“Statement of Lakhwinder Singh son of Dalbir Singh resident of Dhoopsari Jaswan, police station Taragarh, district Pathankot aged about 35 years mobile number 73476-xxxx, stated that I am a resident of the said address and I recite Akhand Path Sahib and perform the duties of Granthi. On the date 09.09.2024 the time will be around 7.30 AM, that I and my wife Daljit Kaur had gone to get the grass feed for the cattle in our grass heap store and we both were cutting the grass feed, at that time Shingara Singh son of Harnam Singh, Kulwant Singh son of Harnam Singh, Damanpreet Singh son of Kulwant Singh, Darbari Singh son of Harnam Singh resident of Dhoopsari Jaswan attacked me and my wife with their weapons, Kulwant Singh son of Harnam Singh hit me with his hand held dattar which hit on

my left ear and then Shingara Singh son of Harnam Singh attacked on me with his hand held Dang which hit my right wrist. My wife Daljit Kaur came forward to rescue me, so his men hit her and then Damanpreet Singh son of Kulwant Singh attacked on me with his hand held dagger which hit on my head. While leaving, Darbari Singh took my mobile brand OPPO in which there was five thousand rupees in cash of mine was lying. During the fight, my wife's gold earring also fell at that place. Prior to this, on 08.09.2024 at around 12:00 o'clock in the day time, all the said persons had taken off my turban and my father Dalbir Singh's PARNA (type of turban) in the village street and also taken off my SHRI SAHIB (small kirpan) and thrown at the dirty place and also injured my father. I have submitted the photo copy of the MLR of mine and my father Dalbir Singh. So far the prudent people has been trying to made compromise between us which has not been come to conclusion yet. xxx xxx "

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:

"5. xxx xxx

A. Role of the Petitioner :-

That on 09.09.2024 at about 07:30 AM the petitioner along with Kulwant Singh S/o Harnam Singh, Damanpreet Singh S/o Kulwant Singh, Darbari Singh S/o Harnam Singh all residents of Village Jaswan Dhupsari attacked upon Lakhwinder Singh and his wife namely Daljeet Kaur with their weapons. In the attack, Shangara Singh hit the complainant Lakhwinder Singh on his right wrist with his Daang. Further during the attack by other assailants and the petitioner, the turban of Lakhwinder Singh and of his father Dalbir Singh was taken off. The assailants further took off the Shri Sahib of the injured and threw it at a dirty place. The Petitioner took active part on the complainant and his family members.

B. The Evidence against the Petitioner :-

After the registration of FIR, Dalbari Singh and Kulwant Singh were arrested in the present case and Darbari Singh got recovered the mobile

phone make -OPPO from his house, which was taken away by the petitioner and the assailants during attack. The Medico Legal Reports of Dalbir Singh and Lakhwinder Singh were also obtained by the investigating officer as an evidence against the petitioner.”

7. 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.
8. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the status report does not point out the steps taken to arrest the accused.
9. 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.
10. 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.
11. 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)	

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

13. 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.

14. 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. 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.

16. 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.

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

18. 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.

19. **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