

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3953-2025
Reserved on: 17.02.2025
Pronounced on: 20.02.2025

Rakesh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Bhardwaj, Advocate,
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
378	11.12.2024	Badli, Distt. Jhajjar (Haryana)	190, 193(3), 115, 126, 287, 351(3), 110, 117(2) of BNS and Sections 25/54/59 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 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts of the case are being taken from translated copy of FIR annexed with bail petition as Annexure P-1, which reads as follows:

“To SHO sahab, Police Station Badli. Sir, I request that I Devendra S/o Ramesh, is resident of village Jakhoda, district Jhajjar and doing the work of agriculture. We are two brothers. I am the elder one and the younger one is Ravindra. On 10.12.2024, Mohit S/o Ramesh of village Jakhoda from our village was scheduled to get married in village Badli. I and my brother Ravindra left for Badli in our respective vehicles at around 7 in the evening for the wedding. We reached the wedding at around 7:45, there some quarrel had taken place between the boys of the village. Everyone was pacified and sent back home. Ravindra had also left the wedding venue in his vehicle, in the meantime four-five

vehicles came and blocked the way by stopping in front of Ravindra's vehicle and Ravindra was alighted from the car. Mohit S/o Jogendra from my own village fired three shots in the air. Along with Mohit, Suraj, Mohit, Rakesh, Golu S/o Leela, Mohit Lathar village Goyala Kalan and 15 to 20 other boys attacked Ravindra with sticks. They said that Ravindra be killed. Their nephew Golu is also included in this. They have inflicted many injuries to Ravindra. Then somehow by intervening, Ravindra was brought to Badli Golden Global Hospital. From there he was brought to Sanjeevani Hospital Bahadurgarh. Here, after waiting, an application has been submitted that legal action should be taken against all of them."

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 and refer para No. 8 of the petition, which read as follows:

"That it is relevant to submit that the injured was taken to a private hospital for treatment and not in the government hospital intentionally by the complainant party. Moreover, the complainant party disclosed to the doctor that the injured received injuries by some unknown persons the doctor has also mentioned that the injured was heavily drunk when he was brought in the hospital. Some scuffle has taken place between the residents of the village in the marriage and the petitioner has falsely been implicated in the FIR."

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. That in the statement of injured Ravinder, name of present petitioner is specifically mentioned that he attacked on the injured Ravinder with danda and there is specific allegation against him and sufficient evidence is available against the petitioner. The Danda used in the crime is to be recovered from the petitioner and vehicle used in the crime is also to be recovered and other accused are also to be arrested and as such custodial interrogation of the petitioner is required in the present case. If the present petitioner is released on bail, he can put pressure on the witnesses and can abscond from trial.

6. That there are 7 named accused in the present case and 15-20

unnamed persons in the present case. Only one accused Sahil has been arrested and remaining accused are yet to be arrested and recovery of pistols, vehicle, stick and rod is yet to be affected and as such the petitioner is not entitled to concession of anticipatory bail.

7. That the Danda/stick used in the crime is to be recovered from the petitioner and vehicle used in the crime is also to be recovered and other accused are also to be arrested and recovery of pistol and Danda is also to be made and as such custodial interrogation of the petitioner is required in the present case. If the present petitioner is released on bail, he can put pressure on the witnesses and can abscond from trial."

REASONING:

7. A scuffle has taken place between the villagers in a marriage and allegations against the petitioner are that he attacked on injured-Ravinder with Danda.

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 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.

CONDITIONS:

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. 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. 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.

14. 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.

15. 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.

16. Given the background of allegations against the petitioner, it becomes paramount to protect 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 firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a 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 of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under 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.

17. 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."

18. 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.

19. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

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 have the liberty to**

cancel this bail.

21. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.
22. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
23. 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.
24. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.02.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.