

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15487-2025
Reserved on: 01.05.2025
Pronounced on: 12.05.2025

Binder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amandeep Chhabra, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

Mr. Arshpreet Khadial, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
182	29.12.2024	Nehianwala, District Bathinda	551(6), 115(2), 191(3), 190 of BNS, 2023

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 translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

"Statement of Jaspal Singh, Son of Ajmer Singh, Son of Sarban Singh, Resident Near Bhai Bhagtu Gurdwara Sahib, Nehianwala, Age about 35 Years, Mobile No.95920-xxxx, stated that I am a resident of the abovementioned address and work as a carpenter. On 12.10.2024, our entire family was present at home, and at about 10:00 PM when Sandeep Singh, Sonu Singh (sons of Gurbakhsh Singh), Sukhdev Singh (son of Mehar Singh), Jaspreet Singh, Harpreet Singh (sons of Binder Singh), Binder Singh (son of Jagga Singh), Channa Singh (son of Jarnail Singh),

Kartar Singh (son of Nazar Singh), Labbhi Singh (son of not known), Harnam Singh, and Sukhdev Singh (sons of Mehar Singh) were bursting firecrackers in the street. When we stopped them and told them not to burst firecrackers because it scared our animals, they got into an argument with us. We then closed the main gate of our house. The above-mentioned persons climbed onto their roof and entered our roof. Among them, Sandeep Singh was holding an iron spade, Jaspreet Singh had a knife, Binder Singh had an axe, and Sonu was holding a rod. As soon as these persons came onto our roof, they damaged the TV dish antennas, the sheets of the shed where animals are kept, and the stairs. They then entered our house and attacked us. When my sister-in-law Rajvinder Kaur tried to intervene, they beat her as well. We started shouting for help, which attracted the attention of passersby, and a crowd gathered. Upon seeing this, they broke our main gate and fled from the spot with their weapons. Later, my wife Jaspreet Kaur arranged the vehicle and admitted us to the Government Hospital Bathinda, where we received treatment. We were discharged on the date 17.10.2024. Today, I have narrated the truth and recorded my statement. It has been heard and is correct. Action should be taken."

4. Counsel for the petitioner submits that he would have no objection in case any stringent conditions this Court might put upon the petitioner including surrender of fire arms, if any and he will not enter the property of the complainant/victim and if he does so, he has no objection if the State files an application for cancellation of bail. He contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family. He further submits that co-accused has already granted benefit of anticipatory bail.

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:

"24. xxx xxx

A. The evidence based on which the petitioner was arraigned as an accused.

The complainant Jaspal Singh had categorically stated against the accused/petitioner Binder Singh and named him in his statement being active accused, who was armed with axe. Furthermore, the investigating

officer had also prima facie found the prime and active involvement of accused/petitioner in the occurrence duly based on the identification of complainant and video footage produced by him.

B. The evidence against the petitioner.

As stated earlier, the complainant Jaspal Singh had categorically stated against the accused/petitioner Binder Singh and named him in his statement being active accused, who was armed with axe. Furthermore, the investigating officer had also prima facie found the prime and active involvement of accused/petitioner in the occurrence duly based on the identification of complainant and video footage produced by him.

C. The role of the petitioner.

The accused/petitioner Binder Singh armed with Axe along with their unlawful assembly inflicted injuries after criminal trespassing into the house of complainant Jaspal Singh as such he played prima role in the occurrence along with other accused persons.”

7. Counsel for the complainant opposes the bail on the grounds that recovery of weapon is to take place. There was an unlawful assembly and when the police went to arrest them, even the police party were attacked, which shows that the criminal mind set of the petitioner.

REASONING:

8. As per allegations, the petitioner along with his co-accused armed with different dangerous weapons forcibly entered into the house of the complainant and then attacked upon him and his family members. A perusal of the record shows that there were two injured persons, who are having 3 and 2 injuries, but none has been declared to be grievous in nature. A perusal of the status report shows that petitioner was armed with axe but no injury has been attributed. Co-accused have already been granted bail by this Court on 11.03.2025 passed in CRM-M-9114-2025, who was on the similar footing, as such, no ground is made out to deny bail to the petitioner.

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 primafacie 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.

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 Ilaqa 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 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 and fully cooperate in the recovery of weapon. 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. Given the background of allegations against the petitioner, it becomes

paramount to protect the victim, 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 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. 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 (Crl.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

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. **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.**

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

21. 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.

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

(ANOOP CHITKARA)
JUDGE

12.05.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.