



210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23174-2024
Date of Decision: 21.01.2025

Sagar @ Totty ...Petitioner
Versus
State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present: Mr. Mohit Giri, Advocate for the petitioner.
Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
235	28.09.2021	Moti Nagar, District Ludhiana	307, 326, 323, 341, 506, 148, 149 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. Vide order dated 14.05.2024, the petitioner was granted interim bail/protection, which continues to date.
3. The facts and allegations are being taken from para 2 of the bail petition, which reads as follows:

“Statement of Darshana Kaur @ Simran Wife of Randhir Singh Resident of Green City Village Bhukhari Kalan Police Station Jamalpur District Ludhiana, aged about 60 years, Mob: No: 78140-xxxxx stated that I am the resident of above said address and I am a housewife. I was married to Randhir Singh in the year 1986. I have two sons, the elder son is namely Sonu alias Kaka and the younger son is namely Parvinder Singh alias Sunny, both of them are married. I work with my younger daughter-in-law Sukhwinder Kaur @ Sukhi regarding making tea, milk and roti etc. at the Suvidha center near D.S. Park Transport Nagar Ludhiana. We start our stall (costermonger) every morning around 10 AM and we used to close our stall (costermonger) at around 10:00 PM in the evening. On 26.09.2021 we both opened our stall as usual and due to high work load we got late then on 27.09.2021 the time



would be around 12:15 AM when I and my daughter-in-law Sukhwinder Kaur alias Sukho were about to close our stall (Costermonger) at our usual place i.e. place of occurrence i.e. backside Dhaba of Mahinder Near Dispensary Transport Nagar Ludhiana, then about 5-6 young men stopped my daughter-in-law Sukhwinder Kaur alias Sukho on the way, surrounded her and attacked her with sharp weapons. Due to which they broke all the bones of my daughter-in-law's face including the Nasal bone and they had made her right eye completely disabled and many injuries were also inflicted on the thigh, regarding whom my daughter-in-law had told me earlier that Toti, Sanjay, Vicky Tunda and other unidentified young persons' used to come and harass me at our stall and all these young persons, in connivance with each other, had caused injuries on her face, eye and on other body parts with sharp edged weapons and also extended threats to kill her. Due to the injuries being grievous, my daughter-in-law fell unconscious, then I called Gaurav son of Prashotam Lal resident of House No: 2650 Street No: 03, Mohalla Habibganj Police Station Division No: 02, near Civil Hospital Ludhiana, who arranged a ride and after making arrangements, my daughter-in-law was first admitted to Civil Hospital Ludhiana, who referred her to PGI Chandigarh after providing first aid. After we reached Chandigarh, but due to unavailability of bed at PGI Chandigarh, I and Gaurav again brought the patient Sukhwinder Kaur alias Sukho to CMC hospital Ludhiana where my daughter-in-law is undergoing treatment. Appropriate legal action should be taken against the above said Toti, Sanjay, Vicky Tunda and other unidentified young persons. I have got recorded my statement today, heard and is accepted as correct."

4. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and 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 during the course of further investigation, on 27.09.2021, the petitioner was arrested in the above noted FIR, who during interrogation confessed that he along with his accomplices had inflicted injuries on respondent no.2 and further the petitioner was duly identified by the



complainant as one of the accused, who had inflicted injuries on respondent no.2 and in this regard separate Identification Memo was also prepared.”

7. Petitioner’s counsel submits that the petitioner had settled the matter with the complainant because the petitioner was named as an accused under misconception. He has referred to affidavit given by the victim, in which, she has explicitly mentioned that she does not want to proceed against petitioner -Sagar @ Totty. A perusal of the reply does not mention about the affidavit and contents.

8. On 14.05.2024, a co-ordinate Bench of this Court had granted interim bail to petitioner by observing as follows:

“Contends, inter alia, that in view of affidavits dated 08.11.2021 and 27.03.2024 of victim and respondent No. 2 respectively, petitioner has no role in the present case.”

9. Although 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 the same for the bail stage.

10. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

11. Given the background of allegations against the petitioner, it becomes paramount to protect the complainant, witnesses, and 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, 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.

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

13. **Petition allowed** in terms mentioned above. Interim order dated 14.05.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

21.01.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.