

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38398-2024
Reserved on: 15.02.2025
Pronounced on: 28.02.2025

Jaideep ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Monu Sharma, Advocate,
for the petitioner.

Mr. Aashish Bishnoi, DAG Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
434	18.07.2024	Sector-29, Panipat, Distt. Panipat	115, 126, 190, 191 (3), 351 (2) of BNS, 2023 (Section 25 of Arms Act added later on)

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 18 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 (Annexure P-1) annexed with the bail petition, which reads as follows:

“xxx xxx To the In-Charge, Police Post Kishanpura, Panipat. Sir, stated that I, Akshay s/o Pawan Kumar, am R/o Khatik Basti, Panipat. Today i.e. on 17.07.2024, I was going from my house to Dharamshala, Khatik Basti and Jaideep Pawar s/o Ashok stopped my way and hurled abuses and gave beatings to me, upon which I asked as to why was he beating and then Jaideep said that they would kill me and after phone call, he called upon his uncle/chacha Vikram, Sunny, Sonu, Buntly who came on motorcycle and after coming, all of them gave beatings to me with legs, danda angrily and while I was running away, then Jaideep gave brick blow on my head from

behind. When the people from neighbourhood gathered, then they ran away from the spot. Legal action be taken against all of them. I have produced my MLR to you.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that 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 reply, which read as follows:

“3. That the role of the petitioner is that he is specifically named as accused in the present FIR. Petitioner is the main accused in this case and there are specific allegations on the petitioner for abusing complainant, then calling other co-accused and giving beatings to the complainant with fists, legs, dandas. Thereafter, when the complainant was running away to save himself, the petitioner gave a brick blow to the head of the complainant. Moreover, the perusal of CCTV footage obtained from cameras installed near the crime spot revealed that the petitioner was going towards the crime spot armed with sword.

4. That the petitioner has not joined in the investigation of the case and further investigation of the case is still in progress. The custodial interrogation of the petitioner is required for a proper investigation of the case and recovery of sword used by him in the occurrence. It is humbly submitted that the custodial interrogation of accused person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, hence the present petition is liable to be dismissed.”

REASONING:

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. Given the above, the penal provisions invoked coupled with the prima facie

analysis of the nature of allegations, role attributed and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage.

9. 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:

10. 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.

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. 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.

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. ***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.***

15. 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.

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

28.02.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.