

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39312-2024
Reserved on: 03.02.2025
Pronounced on: 14.02.2025

SK Abdul Sayeed ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amzad Khan, Advocate
for the petitioner.

Mr. Rubal Pawar, AAG, Punjab.

Mr. Anureet S.Sidhu, Advocate,
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
17	05.02.2024	Amloh, Distt. Fatehgarh Sahib	307, 506, 148, 149 IPC

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 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. The brief facts of the case are that the present F.I.R (Annexure P-1) was registered on the statement of the complainant Jaisul Haq to the effect that he has been doing work as a labourer in Shri Ram Ply Wood Factory for 4-5 days. Their contractor is from their village, whose name is Mohammad Jamaal. Before them, the petitioner Abdul Sayeed was doing work as a contractor of his labour in the factory, due to their work in the factory, the work of the petitioner Abdul Sayeed was reduced. The petitioner Abdul along with his accomplice labourers namely Shankar Mahapatar, Umesh, and Deepu had been threatening to kill him and his

contractor Mohammad Jamaal for 2-3 days. On 04.02.2024, at around 10:00 PM, after the closing of the factory, the petitioner Abdul was armed with an iron Dah in his right hand, Shanker was armed with an iron dah in his hand, and Tarlochan, Hafeez, and Deepu Singh were armed with sticks in their hands, attacked on the complainant and Mohammad Jamal, with their weapons intending to kill us. The petitioner Abdul hit the iron dah/datar on the head, mouth, and ear of the complainant intending to kill him. Shankar Mahapatar, with the intention to kill his contractor Mohammad Jamaal, started hitting with iron dah/datar on his head and mouth continuously. Then, Umesh, Tarochan, Hafeez, and Deepu also started beating us with their weapons. Then, the complainant raised the alarm. After hearing the noise of the complainant, other labourers who worked in the factory gathered on the spot, and seeing the gathering of the labourers, the accused persons ran away from the spot along with their respective weapons and his contractor Mohammad Jamaal became unconscious. The motive behind the occurrence is that the work of the petitioner Abdul and his labour was reduced due to the arrival of the complainant and his contractor, the petitioner and his accomplice wanted to evict them from the factory but they did not leave the factory, due to which the petitioner Abdul and his accomplices all attacked them with sharp weapons intending to kill them. Then the labourers admitted the complainant and other injured persons to Jain Hospital Khanna for treatment.”

4. Counsel for the petitioner prays bail on the ground that the matter has been compromised. He further 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. Counsel for complainant submits that the petitioner and the aggrieved persons were co-workers and now they settled the dispute and they would have no objection in case this Court grants bail to the petitioner.

6. State counsel opposes the bail. He submits that the matter is serious and involves Section 307 IPC. He refers to para 7 of the status report, which reads as follows:

“7. That the role of the petitioner Abdul Sayeed is that the petitioner is accused of leading the assault on the complainant and Mohammad Jamaal and the petitioner along with his accomplice inflicted multiple injuries on the part of the complainant and Mohammad Jamaal. The petitioner hit the iron dah/datar on the head mouth, and ear of the complainant intending to kill him. Moreover, the weapon used by the

petitioner, an iron dah/datar, is still to be recovered. Therefore, custodial interrogation of the petitioner is deemed necessary for the investigation.”

7. Given the nature of allegations coupled with the fact that parties have compromised the matter, petitioner is entitled for bail. However, it is clarified that this bail order shall neither be considered as a reason to quash the FIR nor shall come as hindrance in the way of the prosecution or the Court in case, there is violation of Sections 216/217 of BNS 2023 (181/182 IPC earlier).

REASONING:

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, factum of compromise 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.

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 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.

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. 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. 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.

17. 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.

18. 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.

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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

14.02.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.