

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

230

CRM-M-50400-2024
Date of Decision: 13.01.2025

Varinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Robindeep Singh Bhullar, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

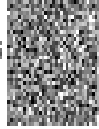
DDR No.	Dated	Police Station	Sections
21	05.07.2024	Nihal Singh Wala, Distt. Moga	323, 324, 34 IPC (Section 326 IPC added later on vide DDR No.09 dated 04.08.2024)

IN

FIR No.	Dated	Police Station	Sections
96	04.07.2024	Nihal Singh Wala, Distt. Moga	323, 341, 506, 148, 149 IPC

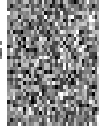
1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 21 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“3. That it is respectfully submitted that the instant matter is a case of version and cross-version wherein, FIR No. 96 dated 04.07.2024 under Sections 323, 341, 506, 148, 149 IPC, P.S Nihal Singh Wala has been registered initially on the statement of complainant/present petitioner (First party) Varinder Singh son of Sukhmander Singh son of Piara Singh,



resident of Khai by name, against four accused persons namely (1) Manjinder Singh son of Gurpiar Singh (2) Lakhwinder Singh son of Chhinder Singh (3) Harman Singh son of Bhushan Singh (4) Sai son of Prithi Singh, all residents of village Khai and 2-3 unidentified accused persons. In his statement recorded with the police, complainant/present petitioner alleged that on 29.06.2024, complainant was going to fields of Manpreet Singh and when he reached bit ahead of Dharmshala to the side of Bus stand at around 9.00 PM, at that time Manjinder Singh son of Gurpiar Singh armed with iron pipe, Lakhwinder Singh S/o Chhinder Singh armed with baseball and Harnam Singh S/o Bhushan Singh armed with Daang and Shanti S/o Pirthi Singh carrying Daang along with three unknown accused persons came there and surrounded said complainant and then Manjinder Singh raised Lalkara and said the companions to catch the complainant and teach the complainant how to speak with them. Upon this, Lakhwinder Singh inflicted injury on the head of said complainant with baseball and then Harman Singh gave a Daang blow which hit on the right hand of the complainant then Manjinder Singh gave iron pipe blow on the shoulders of the complainant due to which he falls down and while he was laying down, Shanti Singh besides unknown persons gave kicks blows on the legs, back and stomach of the complainant. Upon alarm raised by said complainant, his brother Joginder Singh and other public gathered and all the accused persons escaped from the spot along with their respective weapons.

Subsequently, on the statement besides MLR No. KKP/178/Moga/2024 dated 29.06.2024 pertaining to injured/complainant (second party) Manjinder Singh son of Gurpiar Singh, resident of Khai, the cross version of this case was registered vide DDR No.021 dated 05.07.2024 recorded at Police Station Nihal Singh Wala, under Sections 323, 324, 34 IPC (326 IPC added later-on), by name, against three accused persons namely (1) Varinder Singh son of Sukhmander Singh @ Waqil (present petitioner) (2) Baljinder Singh son of Pargat Singh & (3) Pinka Singh son of Neela Singh, all residents of village Khai. It is alleged by the aforesaid complainant Manjinder Singh (second party) that on 29.06.2024, at about 9:00 P.M; complainant Manjinder Singh along with his colleague namely Lakhwinder Singh was coming to his house, then in the meanwhile, accused Baljinder Singh gave him blow with the stick on his for head, accused/petitioner Varinder Singh gave him injury on the fingers of his right hand with baseball while co-accused Pinka Singh gave kick blows to said



complainant Manjinder Singh while he fell down on ground. All the accused had also beaten-up and inflicted injuries to complainant's colleague namely Lakhwinder Singh."

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.

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. (A) The role of the petitioner:

That on 29.06.2024, at about 9:00 P.M; Manjinder Singh along with his colleague namely Lakhwinder Singh was coming to his house, then in the meanwhile, accused Baljinder Singh gave him blow with the stick which hit on his head of said complainant whereas, the present petitioner Varinder Singh gave him injury on the fingers of his right hand with baseball while co-accused Pinka Singh gave kick blows to said complainant Manjinder Singh while he fell down on ground. All the accused had also beaten-up and inflicted injuries to complainant's colleague namely Lakhwinder Singh.

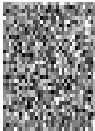
(B). The evidence against the petitioner:

That as per the statement recorded by complainant (Second party) Manjinder Singh has specifically named the present petitioner Varinder Singh in his statement recorded with the police that accused/petitioner Varinder Singh has inflicted injury on the fingers of his right hand of said complainant with baseball and that the MLR is also available on the record whereby all the injures on the person of said injured have been opined to be inflicted from sharp edged weapon."

7. It's a case of version and cross-version, and who was the aggressor is subject matter of the trial.

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. This order shall come into force from the time it is uploaded on this Court's official webpage.

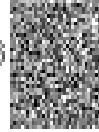
11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability 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



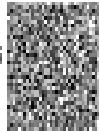
language, inhuman treatment, etc.

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 (Crl.) 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 victim, and their family members, as well as 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 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 in this case, 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.

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. 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

13.01.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.