

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-54816-2024  
Reserved on: 15.02.2025  
Pronounced on: 28.02.2025

Lovely ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Umesh Kumar, Advocate for  
Mr. Sanjeev Singh Taank, Advocate, for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Kunal Goyal, Advocate, for the complainant.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                                      | Sections                               |
|---------|------------|-----------------------------------------------------|----------------------------------------|
| 44      | 23.02.2024 | Basti Bawa Khel, Tehsil & Distt. Jalandhar (Punjab) | 307, 341, 323, 324, 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 16 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:
- “2.1) That the complainant Juber son of Aish Mohammad has got registered the case with the allegations that they are working in Leather Complex and Chand is youngest aged about 16 years, whereas Raja is aged about 16 years is his maternal uncle's son who came to meet them in the factory on 22.02.2024. After meeting them, they were returning to their home. At about 06:30 PM, when they reached in front of Prime Bonus Factory, then two young boys rammed their motorcycle in to them and there was an altercation. The boy named Tushar Kapoor was driving the motorcycle and they have also abused them. At about 07:30 PM when complainant reached near Basti Peer Daad, then both those boys along*

*with other 4-5 unknown persons waylaid them and attacked them. They were loudly saying that complainant party be taught a lesson for disputing with them. Tushar Kapoor caught hold of the complainant from his arms and scuffled with him and raised exhortation to the present petitioner that complainant party not be spared.*

*2) That the complainant further alleged that the petitioner gave datar blow on the head of younger brother of complainant namely Chand and second blow towards the head of Raja, whereas other unknown boys also gave injuries on different parts of body of his brother. Due to injuries by the petitioner and other unknown boys, both brothers of the complainant started bleeding profusely and fell on the ground and then Tushar Kapoor and other unknown boys also inflicted the injuries with an intention to commit their murder and afterward ran away with their respective weapons."*

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. Counsel for the complainant submits that the matter has been compromised and he has no objection in case, bail petition is allowed and refer his statement made on 16.01.2025.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

**"3. INJURIES INFLICTED BY PETITIONER**

1) That the petitioner has inflicted injuries with datar upon the person of the victim Chand which has been found to be grievous in nature, as there is linear fracture of bilateral parietal bone with overlying soft tissue hematoma and thickening.

2) That due to the nature of injuries offence under section 326 of Indian Penal Code, 1860 was also added vide DDR No.25 dated 06.08.2024.

**4. RECOVERY OF WEAPON USED IN COMMISSION OF OFFENCE**

That the injury attributed to the petitioner is with the help of means of datar and he was also member of an unlawful assembly, who tried to commit murder and the weapon used in the commission of crime have yet to be recovered. Therefore, the custodial interrogation by the police of the petitioner is necessary."

**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, 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. 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.

9. 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.

10. 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)                                                                                                             |  |

11. This order is subject to the petitioner's complying with the following terms.

12. 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.

13. 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. 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.

15. **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.**

16. 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.

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

18. 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.

19. **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. |