

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-57519-2024  
Reserved on: 13.01.2025  
Pronounced on: 18.01.2025

Hushiar Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Pal Singh, Advocate,  
for the petitioner.

Mr. Sukhdev Singh, A.A.G, Punjab.

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ANOOP CHITKARA, J.

| GD No. | Dated      | Police Station                  | Sections                                          |
|--------|------------|---------------------------------|---------------------------------------------------|
| 24     | 10.09.2024 | Amloh, District Fatehgarh Sahib | 332-C, 115(2), 118, 190, 191(3), 109 of BNS, 2023 |

IN

| FIR No. | Dated      | Police Station                  | Sections                               |
|---------|------------|---------------------------------|----------------------------------------|
| 114     | 30.08.2024 | Amloh, District Fatehgarh Sahib | 115(2), 118, 351(2), 3(5) of BNS, 2023 |

- The petitioner apprehending arrest in the GD captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
- In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.
- The facts and allegations are being taken from the GD, which reads as follows:

*“At about this time, Const. Baljeet Singh came present in Police Station who stated as under and presented Roznamcha written by ASI Taranjeet Singh. The contents of which are, "statement of Harvir Singh son of Jaspal Singh resident of Bharpurgarh, Police Station Amloh, District Fatehgarh Sahib aged about 30 years, 84371-xxxxx stated that I am resident of aforesaid address and does labour. Gurtej Singh son of Dharam Pal Singh resident of village Bharpurgarh, Police Station Amloh, District Fatehgarh*

*Sahib is son of my Taya (uncle). On 29.08.2024 at about 6 PM me and Gurtej Singh and sukha son of Harmesh Singh, sunny son of Kulwant Singh who are my nephews were repairing the machine at the house of Gurtej Singh, then our neighbourer Bhagat Singh son of Hardev Singh resident of village Bharpurgarh, Police Station Amloh, District Fatehgarh Sahib came at our residence who said to my brother Gurtej Singh that our electricity wire has been damaged and you mend that, then my brother Gurtej went to repair the same, then in the meantime Harpreet Singh son of Birbal Singh who is an private employee of Electricity Department came there who started arguing with our neighbourer Bhagat Singh. Then my brother tried to pacify Gurtej Singh from arguing that don't argue like this with an old man. On that they started arguing and Harpreet Singh left from the spot. After sometime Harpreet Singh son of Birbal Singh resident of Kapoorgarh having Dah alongwith Iqbal Singh son of Birbal singh having armed "Barchha", Paramjeet Kaur wife of Birbal singh resident of Kapoorgarh, Jashanpreet Singh @ Manga son of Hoshiar Singh armed with axe, Hushiar Singh son of Pritam Singh armed with Soti, Baljeet Kaur wife of Hushiar Singh resident of Bharpurgarh, P.O. Amloh alongwith weapons came there with intention to attack on Gurtej Singh son of Dharampal Singh entered the house, then I tried to stop them, but Hushiar Singh gave Soti blow on my hand and after pushing me entered and Jashanpreet Singh @ Manga gave an axe blow on the left side of the head of Gurtej Singh. Gurtej Singh fell down and while lying down, Harpreet Singh gave Gandasi blow on the right side of his head. Then Iqbal Singh @ Palli gave Barchha blow on the backside of the head of Gurtej Singh and all these three persons brought dragging Gurtej Singh outside and started beating Gurtej singh, then Baljeet Kaur wife of Hoshiar Singh and Paramjeet Kaur wife of Birbal Singh started brick batting, which struck at our tractor, which caused loss to tractor. In the meantime, me and my nephew Sunny, Sukha started raising 'Raula', then after hearing our cries and seeing the gathering of people, the above mentioned persons after their motorcycle leaving no. PB- 13BG-6918 make Splendor ran away from the spot alongwith their weapons. Along these persons three, four more persons who took away them on this vehicle. If had the people did not gather there on hearing our cries and do not chase them they would have killed my brother Gurtej Singh. Then I took my brother in car bearing no. PB- 21A-4995 make Zen and got admitted him in G.H. Amloh, from where he was referred to C.H. Fatehgarh Sahib after getting first aid due to*

*several injuries. Then I took my brother Gurtej Singh to C.H. Fatehgarh Sahib where doctor after checking him referred my brother to C.H. Sector 32, Chandigarh where he is under treatment. The reason of grudge is that my brother was repairing the electricity wire of our neighbour Bhagat Singh, due to which Harpreet Singh was arguing with Bhagat Singh and my brother was stopping him not to do such act. Due to which these aforesaid persons have given injuries to my brother Gurtej Singh for which he is under treatment at C.H. Sector 32 Chandigarh. My brother suffered severe injuries on head. My brother Gurtej Singh is not in a position to give statement. The strict legal action be taken against the aforesaid persons. Statement has been got recorded which is correct.”*

4. Counsel for the petitioner has drawn attention of this Court to Annexure P-1 which is an FIR registered based on the petitioner’s party and it reads as follows:

*“Statement of Jasanpreet Singh Manga son of Hoshiar Singh resident of Village Bharpurgarh, Police Station Amloh aged about 20 years, 90416xxxxx. Stated that I am resident of above mentioned address. I am shepherd. Gurtej Singh son of Dharam Singh resident of Bharpurgarh resides near my house who is having sawmill, the people use together at their sawmill. Yesterday on 29.08.2024, I was standing outside my house with my father and at about 6.30 PM Gurtej Singh, Harvir Singh son of Jaspal Singh, Telu Ram son of Dharam and Sunny son of Kulwant Singh were standing in the street outside the sawmill, then Harpreet Singh son of Birbal Singh resident of Kapoorgarh came, who told Gurtej Singh don't put the electric latch, I have been sent by the Electricity Board to stop this. Then Gurtej Singh started argument with him, then me and my father Hoshiar Singh also went there. Then the father of Harpreet Singh named Birbal Singh and mother of Harpreet Singh named Paramjeet Kaur, who had gone to make prayer at Billu Peer Baba also reached there, where Gurtej Singh started abusing Harpreet Singh who was having kirpan in his hand and gave two blows of kirpan on the left shoulder of Harpreet Singh. When and me my father Hoshiar Singh tried to rescue him, then Telu Ram gave Danda blow on my back and also gave Danda blow on my left arm and Harvir Singh gave iron punch blow on the face of my father and Sunny gave Danda blows on his back. My father lost two teeth. Then Harvir Singh, Sunny etc. gave Danda blows on the both legs of Harpreet Singh. When Paramjeet Kaur mother of Harpreet and father Birbal Singh tried to rescue, then all these persons gave injuries to both of them. Then Iqbal*

*Singh brother of Harpreet came and tried to rescue, then Gurtej Singh gave Kirpan blows on his head and all of them raised voice "Marta Marta". Then several people gathered there, who got us rescued. Then Gurpreet Singh son of Mewa Singh resident of Bharpurgarh etc. admitted us in Civil Hospital Amloh for treatment. From where me and my father got treatment. Harpreet Singh and his mother Paramjeet Kaur have been referred to CH Sector 32. At the time of rescuing, they had given injuries to Iqbal Singh. He is also admitted in C.H. Fatehgarh Sahib. That all these persons gave threatening us to kill. The reason of grudge is that Harpreet Singh had stopped Gurtej Singh from theft of electricity. Due to which, they beaten us in out of rage. Action be taken against them. xxx xxxx"*

5. 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.
6. The State's counsel opposes bail and refers to the status report.
7. A perusal of both the FIR and G.D point towards contradictory and opposite version. Further, it would be appropriate to refer to para Nos.3 and 4 of the status report, which reads as follows:

*"3. That briefly, Jashanpreet Singh stated to the effect that:*

*(i) He works as a goat herder. The abovementioned Gurtej Singh lives near his house and operates a sawmill where people often gather. On 29-08-2024, around 6:30 PM, Jashanpreet was standing outside his house in the street with his father, Hushiar Singh (present petitioner). At that time, Gurtej Singh, Harveer Singh, Telu Ram, and Sunny were standing in the street outside the sawmill. Then Harpreet Singh son of Birbal Singh arrived there and told Gurtej Singh not to commit electricity theft and stated that he had been sent by the electricity board to stop such practices. Gurtej Singh began arguing with Harpreet Singh. Jashanpreet and Hushiar Singh, approached them to intervene. Shortly thereafter, the father and mother of Harpreet Singh namely Birbal Singh and Paramjit Kaur, respectively, who returning from paying obeisance at Billu Pir Baba, also arrived.*

*(ii) That Jashanpreet Singh further stated that thereafter Gurtej Singh armed with sword, began abusing Harpreet Singh and struck Harpreet Singh twice on his left shoulder. When Jashanpreet and his father tried to intervene, Telu Ram hit Jashanpreet on his back with a stick and also*

*struck his left arm. Harveer Singh hit Hushiar Singh (present petitioner) on the face with an iron punch, and Sunny struck him on the back with a stick, causing two of his teeth to break.*

*(iii) That Jashanpreet Singh further stated that Harveer Singh, Sunny, and others gave sticks blows on the legs of Harpreet Singh. When Harpreet Singh's mother, Paramjit Kaur and father Birbal Singh tried to protect him, they were also assaulted by the said accused. At that time, Harpreet Singh's brother, Iqbal Singh, arrived and tried to intervene. Gurtej Singh struck Iqbal Singh on the head with a sword.*

*(iv) That Jashanpreet Singh further stated that the commotion drew a crowd and many people gathered, who eventually rescued the injured individuals. Jashanpreet and his father were admitted to Civil Hospital, Amloh, for treatment. Harpreet Singh was referred to Sector 32, Chandigarh, and Paramjit Kaur, was also referred there. Iqbal Singh, who was injured while trying to intervene, was admitted to Civil Hospital, Fatehgarh Sahib. The complainant Jashanpreet Singh stated the motive behind the assault is enmity arising from Harpreet Singh stopping Gurtej Singh from stealing electricity.*

*(v) That as per MLR of Jashanpreet Singh (complainant in FIR), he suffered 2 injuries with blunt weapon, out of which one was declared simple and other was kept for X-ray opinion.*

*(vi) That as per MLR of Hushiar Singh (present petitioner), he suffered 2 injuries with blunt weapon, one was kept for dental opinion and other was simple.*

*(vii) That as per MLR of Iqbal Singh, he suffered 5 injuries with blunt weapon, out of which injury no. 1 and 4 were kept for X-ray opinion, injury no.2 was kept for surgical opinion and injury no.3 and 5 were declared Simple.*

*(viii) That as per MLR of Paramjit Kaur, she suffered 3 injuries with blunt weapon, out of which injury no.1 was kept for surgical opinion, injury no. 2 was kept for X-ray and injury no.3 was declared Simple.*

*(ix) That as per MLR of Harpreet Singh, he suffered 6 injuries, injury no.2 and 3 were declared sharp and injury no.1, 4, 5 and 6 were declared blunt. Injury no.1 was kept for Surgical Opinion, injury no.2 was kept for X-ray Opinion and injury no.3, 4, 5 and 6 was declared Simple.*

*(x) That accordingly, on the basis of the statement and abovementioned MLRs, the abovementioned FIR was registered.*

*4. That on the other hand, the facts leading to the registration of GD*

*no.24 dated 10-09-2024 are that on 29-08-2024 information was received regarding the admission of injured Gurtej Singh son of Dharampal Singh at Civil Hospital, Amloh. When the police officials visited Civil Hospital Amloh, it was found that said Gurtej Singh was referred to GMCH Sector 32 Chandigarh. When the police party visited Gurtej Singh, he stated that he was not in fit condition to record his statement. Thereafter, the brother of the Gurtej Singh namely Harvir Singh recorded his statement to the effect that:*

*(i) That he works as a laborer. Gurtej Singh son of Dharampal Singh is his cousin. On 29-08-2024, at about 6 PM, he, along with Gurtej Singh, and his (Harvir Singh's) nephews namely Sukha (son of Harmesh Singh), and Sunny (son of Kulwant Singh), were repairing a machine at the house of Gurtej Singh. At that time, their neighbor, Baghel Singh, came to their house and informed Gurtej Singh that an electric wire at his residence was damaged and needed repair. Gurtej Singh went to fix the wire.*

*(ii) That Harvir Singh further stated that while repairing the wire, Harpreet Singh who works in a private capacity with the electricity department, arrived and started arguing with Baghel Singh. Gurtej Singh intervened and tried to stop Harpreet Singh, advising him not to argue disrespectfully with an elder. This led to an argument between them. Harpreet Singh then left the spot but returned shortly armed with 'Dah' alongwith Iqbal Singh armed with a 'barcha'; Paramjeet Kaur; Jaspreet Singh alias Manga carrying a kulhari (axe); Hushiar Singh (present petitioner) armed with a stick; and Baljeet Kaur. They forcefully entered Gurtej Singh's house with the intent to attack him.*

*(iii) That Harvir Singh further stated that when he tried to stop them, Hushiar Singh (present petitioner) struck Harvir Singh on the arm with a stick and pushed him aside. Jaspreet Singh alias Manga attacked Gurtej Singh with a handheld axe, striking him on the left side of his head, causing him to fall to the ground. While Gurtej Singh was lying on the ground, Harpreet Singh struck the right side of the head of Gurtej Singh with a sickle, and Iqbal Singh struck the back of the head of Gurtej Singh with a barcha. Hushiar Singh (present petitioner), Jaspreet Singh and Harpreet Singh dragged Gurtej Singh outside and continued assaulting him.*

*xxx xxx"*

8. Thus, considering the injury attributed to the petitioner, it is not a case for

custodial interrogation or pre-trial incarceration.

9. 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.

10. 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.

11. 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.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the GD 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.

13. 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)                                                                                                             |  |

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.”

19. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this GD, 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.

20. 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.

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

22. 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.

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

(ANOOP CHITKARA)  
JUDGE

18.01.2025  
Jyoti-II

Whether speaking/reasoned: Yes  
Whether reportable: No.