



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

300

CRM-M-57650-2024
Decided on: 13.01.2025

Parmjit Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Akhil Dadwal, Advocate,
for the petitioner. (through V.C)

Mr. Akshay Kumar, A.A.G, Punjab.

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

IN

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

1. 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.
2. In paragraph 11 of the bail petition, the accused declares that she has no criminal antecedents.
3. The facts and allegations are being taken from the GD, which reads as follows:

*“At this time, the statement is being recorded that S/Ct. Baljeet Singh, who is present at the station, has made the following statement:
“On the date of 29.08.2024, around 6 PM, I, Gurdev Singh, Sukha (son of Harmesh Singh), and Sunny (son of Kulwant Singh), who are my nephews, were repairing a machine at Gurtej Singh's house. At that time, our neighbor Baghel Singh (son of Hardev Singh) from the village Bharpoor Garh, Thana Amloh, District Fatehgarh Sahib, came to us and told my*



brother Gurtej Singh that our electric wire had been damaged, and if he could fix it. My brother Gurtej Singh went to fix the wire. Meanwhile, Harpreet Singh (son of Birbal Singh), who works in the electricity department privately, came and started arguing with Baghel Singh. Harpreet Singh tried to stop my brother from arguing, saying that one should not speak in such a manner to an elder. This led to an argument between them, and Harpreet Singh left. After a short time, Harpreet Singh returned with a group of people including Bal Singh (son of Birbal Singh), Parmjeet Kaur (wife of Birbal Singh), Jaspreet Singh (alias Manga), Hushiar Singh (son of Preetam Singh), Baljeet Kaur (wife of Hushiar Singh), and others, armed with weapons. They began to enter our house with the intention of attacking Gurtej Singh. I tried to stop them, but Hushiar Singh struck me on the arm with a stick and pushed me while they continued to assault Gurtej Singh. Jaspreet Singh (alias Manga) struck Gurtej Singh on the left side of his head with a sharp weapon, causing him to fall. As he fell, Harpreet Singh struck him on the right side of the head with a sword. Iqbal Singh (alias Pali) also struck Gurtej Singh on the back of his head with a weapon. They then dragged him out of the house and began beating him. Baljeet Kaur and Parmjeet Kaur started throwing bricks at our tractor, damaging it severely. When my nephew Sunny and I started shouting for help, the people of the village gathered, and seeing them approach, the assailants fled, leaving their vehicle (registration number PB 13 BG 6918, model Splendor) and weapons behind. They were picked up by other unknown individuals in their vehicles.

Had the villagers not gathered and followed them, they could have killed my brother Gurtej Singh. I then took my brother in my vehicle (registration number PB 21A 4995, model) and admitted him to Civil Hospital Amloh. Due to the severity of his injuries, he was referred to Civil Hospital Fatehgarh Sahib and later to GMCH Sector 32, Chandigarh, where he is currently under treatment. The reason for the dispute was that my brother was fixing the electric wire for our neighbor Baghel Singh, which led to an argument between Harpreet Singh and Baghel Singh. My brother tried to stop him, and as a result, Harpreet Singh and others attacked Gurtej Singh. Due to severe head injuries, my brother is unable to provide a statement at this time, which is why I am submitting my statement. I request strict action against the accused individuals. My statement has been read and heard, and it is correct. xxx xxx”



4. Counsel for the petitioner submits that it is a cross case registered at the instance of petitioner's party. He argued that Gurtej Singh had sustained injuries in an altercation but no injury is attributed to petitioner Paramjit Kaur. The petitioner's involvement was limited that she damaged the property and as per the allegations she was seen throwing bricks at the tractor.

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 her family.

6. The State's counsel opposes bail.

7. Considering the fact that no injury is attributed to the petitioner and she is a woman and her role was only to the extent that she damaged the property and was seen throwing bricks at the tractor, it is not a case for custodial interrogation or pre-trial incarceration.

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.

11. 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.



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 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.

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. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

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

13.01.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.