

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39159-2024
Reserved on: 14.11.2024
Pronounced on: 26.11.2024

Kanwarpal Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Gurpreet Kaur, Advocate
for the petitioner.

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

Mr. Jagpal Singh, Advocate
for the complainant-respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
47	27.02.2019	Ajnala, District Amritsar Rural	307, 148, 149 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 of the Code of Criminal Procedure, 1973, seeking anticipatory bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

“3. That the brief and relevant facts of the case are that aforesaid FIR No. 47 dated 27.02.2019 was registered on the basis of the statement of the complainant Jaswinder Singh son of Surta Singh, who had alleged therein that on 22.02.2019, he along with his nephew Gurjinder Singh had gone to Ajnala on their respective motorcycles and he had asked his nephew Gurjinder Singh to reach at the parking of Kirtan Darbar Ajnala after attending his tuition and about 5:00PM, when he reached near Kirtan darbar Ajnala, he saw his nephew Gurjinder Singh was waiting for him and in the mean time, a grey Maruti car came over there from which (1) Navjit Singh armed with datar, (2) Kanwarpal Singh (petitioner), (3) Mani both armed with their respective Kirpans and (4) Rajan armed with a baseball bat along (5) with 2/3 unidentified persons alighted from the car and

Rajan raised a lalkara to catch hold of Gurjinder Singh and teach him a lesson for entering into quarrel with them. He further alleged that in the mean time, Navjit Singh with an intention to kill his nephew Gurjinder Singh caused injury on the back side of the head of Gurjinder Singh with a blow of datar and Kanwarpal (petitioner) caused injury on the left shoulder of his nephew Gurjinder Singh with a blow of kirpan and his nephew Gurjinder Singh fell down on the ground and Mani along with 2/3 unidentified persons started beating Gurjinder Singh and when he raised hue and cry all the aforesaid accused fled away from the spot. The motive behind the incident was that on 21.02.2019, there was a dispute between his nephew Gurjinder Singh and Bhawandeep Singh due to that grudge the aforesaid persons had caused the injuries upon his nephew Gurjinder Singh. The detailed facts mentioned by the complainant Jaswinder Singh in his aforesaid statement has been attached with the petition as Annexure P-1 (FIR No. 47 dated 27.02.2019), which may kindly be read as a part of present paragraph as same are not repeated here for the sake of brevity.”

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 their family.

5. The State's counsel opposes bail and refers to the short reply.

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

“8. That this Hon'ble Court was pleased to quash the present FIR qua the petitioner Kanwarpal Singh and co-accused Navjit Singh, Rajan alias Raja and Manjinder Singh alias Mani vide Judgment dated 14.11.2019 passed in CRM-M-29538 of 2019 but the aforesaid judgement dated 14.11.2019 passed by this Hon'ble Court was set aside by the Hon'ble Apex Court vide order dated 13.02.2024 passed in SLP (Crl.) No. 4069 of 2020 and the directions were issued by the Hon'ble Apex Court to the petitioner and other co-accused to appear before the learned Trial court for pursuing the matter by taking appropriate action based on the subsequent events, if any, in accordance with law.

10. That as per the version of the complainant Jaswinder Singh, the petitioner being armed with a kirpan and as an active member of unlawful assembly consisting of him and the other co-accused attacked upon Gurjinder Singh and caused injuries upon him in furtherance of their common object. The petitioner is attributed injury on the left shoulder of Gurjinder Singh, which is declared simple in nature.”

7. The incident is more than five years and nine months old, and at such a belated stage, there would be no justification for custodial interrogation or pre-trial incarceration in the given allegations.

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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

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. 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 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 Ilaka 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. 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

26.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.