

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44215-2024
Reserved on: 12.11.2024
Pronounced on: 26.11.2024

Jagjit Singh alias Jaggu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.S.Brar, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
107	14.08.2024	Kot Ise Khan, District Moga	118(1)/115(2)/125/191(3)/ 190/324 of BNS 2023 and 27 of Arms Act

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. Per paragraph 8 of the bail application and the short short reply/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	19	19.02.2021	324/323/34 IPC	Kot Ise Khan

3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

“3. That brief facts of the case are that complainant got recorded his statement with the police on 13.08.2024 he alongwith his son Jaskaranpreet Singh aged about 17 years were returning from their fields, then at about 10.15 PM when they reached near the fields of Jagjit Singh @ Juggu son of Ranjit Singh, then Jagjit Singh @ Juggu called the complainant and asked him to stop the motorcycle. Gurjant Singh @ Vicky son of Balkar Singh armed with dang, Sukhwinder Singh @ Laddi son of Balvir Singh armed with Dang were also accompanied with said Jagjit Singh @ Juggu. All of them were in drunkard condition and they started arguing with the complainant and his son without

any reason. Then Sukhwinder Singh @ Laddi gave a blow of his dang, which hit on the motorcycle of the complainant, due to which motorcycle of the complainant was damaged. The complainant and his son alighted from the motorcycle, then Gurjant Singh gave a blow of his dang, which hit on the right eye of Jaskaranpreet Singh. With intention to save themselves, complainant and his son run away towards their house. After reaching to their house, complainant narrated all these facts to his father. Then father of complainant alongwith Angrej Singh, Gurpreet Singh and Bhupinder Singh went to the house of Jagjit Singh (Petitioner) for complaining about the same. They found that Jagjit Singh (Petitioner) was found present at the main gate of his house. Petitioner Jagjit Singh started arguing with father of complainant. Petitioner Jagjit Singh taken out his revolver and fired three shots in air. Pargat Singh son of Mehal Singh armed with sword, Gurjant Singh @ Vicky son of Balkar Singh armed with kirch, Sukhwinder Singh @ Laddi son of Balvir Singh armed with dang, Gurmej Singh s/o Mehal Singh armed with sword, Lakhwinder Singh s/o Balkar Singh armed with axe, Sukhwinder Singh s/o Bishan Singh armed with sword, all residents of Kot Sadar Khan, District Moga and 7/8 unknown persons came there. Petitioner Jagjit Singh raised lalkara and directed his companions not to allow the complainant and others to return safe. Pargat Singh gave a blow of his kirch which hit on the finger of right hand of the complainant. Sukhwinder Singh gave a blow of his dang which hit on the left side of the head of complainant. Gurjant Singh @ Vicky gave a blow of his kirch which hit on the back near waist of the complainant. Accused persons have also caused injuries on person of Man Singh, Gurpreet Singh and Bhupinder Singh. On raising hue and cry all the accused run away from the spot alongwith 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 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:

“5. That on the basis of statement of Gurjeet Kaur wife of Ranjit Singh resident of Kot Sadar Khan, cross version vide DDR No.22 Dated 15.08.2024 u/s 115(2), 191 (3) and 190 BNS was registered against Man Singh s/o Mukhtiar Singh, Daljit Singh son of Man Singh, Bhupinder Singh s/o Balbir Singh and Gurpreet Singh son of Ajaib Singh with the allegations that on 13.08.2024 she was present at her house then at about 10.30 PM his son Jagjit Singh returned to house on his motorcycle. After entering into the house, he locked the door from inside. After sometime gate of their house was knocked. She saw through the window and found that Man Singh armed with Gandasi, Daljit Singh armed with Dang, Bhupinder Singh armed with Dang, son of Bhupinder Singh armed with dang, Gurpreet Singh s/o Ajaib Singh armed with dang and 8-9 unidentified persons were standing in the street and all of them were calling Jagjit Singh. Then complainant and her son opened the gate and went into

street. Petitioner requested said Man Singh that they will discuss the matter tomorrow. Then Daljit Singh gave blow of his dang, then petitioner immediately went into his house and locked the door from inside. Gurjeet Kaur tried to make said persons as understand, then son of Bhupinder Singh gave blow of his dang, which hit on the head of the Gurjeet Kaur; due to which she fell down on the ground. Then Daljit Singh and his companions tried to entered into the house by jumping the door; then Jagjit Singh fired shots in air with his licensed weapon, then people started gathering there, due to which said accused run away from the spot. During said occurrence Sukhpal Singh son Bishan Singh also received injuries on his person. As per MLR of Gurjeet Kaur there was one blunt simple injury on her person. Whereas as per MLR of Sukhpal Singh were was one sharp injury on his person. However, said Sukhpal Singh refused to take any action against anybody regarding his injury.”

7. It would also be appropriate to refer to the following portions of the petition, which read as follows:

“4. That it is a case of version and cross-version and it has been mentioned in the FIR itself that the complainant party reached at the house of the petitioner; where the alleged occurrence took place in front and in the courtyard of the house of the petitioner and they caused injuries on the person of Sukhwinder Singh @ Sukhpal Singh of accused party and from the CCTV footage, it is very much clear that the complainant party were the aggressor. The medical pertaining to the injured person Sukhpal Singh is attached here with as Annexure P-2.

5. That since the house of the petitioner was attacked by about 10-15 persons having weapons, in order to save his life and life of his family members, the petitioner fired shots in air with his licensed weapon so as to scare of the assailants and as such he was well within his right of private defence, the video footage of the incident is annexed herewith as Annexure P-3, by the way of Pen Drive.”

8. An analysis of the above leads to the inference that even if all the complainant's allegations are accepted as true and correct, they should have approached the police or taken some people from the locality. The possibility of the complainant party launching a counterattack cannot be ruled out. However, it is subject to the investigation and its outcome. The petitioner did not fire upon the people but in the Air. For these reasons, a doubt has arisen, and the petitioner is entitled to bail.

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

12. 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 Ilaqa 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 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.

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

26.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.