

CRM-M-2582-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2582-2025
Reserved on: 18.02.2025
Pronounced on: 28.02.2025

Gurwinder Singh alias Gagandeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0156	20.10.2024	Sadar Jagraon, District Ludhiana Rural	115(2), 118(1), 126(2), 3(5), 110 of BNS (Section 118(2) of BNS added later on)

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 11 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:

“ That the brief facts of this case are that on 20-10-2024 complainant Kuldeep Singh son of Nazar Singh resident of village Gurusar Kaunke, PS Sadar, Jagraon, District Ludhiana gave statement to the police that on 20-10-2024, Jagdish Singh @ Deesa son of Bawa Singh had come to his house and asked him to accompany him to his house to manage his household articles in his house. Then he along with his cousin brothers Ranjit Singh and Nirmaljit Singh sons of Gurdev Singh accompanied Jagdish Singh @Deesa to his house in the car. When they reached at the main chowk, Jagdish Singh @ Deesa asked him to bring one cold drink. Then he went to take cold drink from the shop. It was about 7:15 AM at

that time.

3. That the complainant further stated that one car No. PB-10-GT-3880 came from opposite side at high speed and stopped there. Gurpreet Singh Deepa son of Harbans Singh from driver seat, accused Amanjot Singh @ Joyti son of Shinderpal Singh from second seat armed with kirpan, Petitioner Gagandeep Singh son of Davinder Singh armed with baseball and accused Parminder Singh Pindu son of Gurdev Singh armed with baseball resident of Gurusar Kaunke alighted from the car and wrongfully restrained him.

4. That the complainant further stated that accused-Gurpreet Singh @ Deepa raised lalkara saying that his mother is Sarpanch and he has high approach, so he (complainant) should not go un-escaped. Then accused Amanjot Singh @ Joyti gave kirpan blow on his head but he raised his left arm and the blow hit the wrist joint of his left hand. Then petitioner Gagandeep Singh gave blow of baseball with the intention to kill him on his head. He fell down on the ground. Then accused Parminder Singh @ Pindu gave baseball blow on his right thigh. Petitioner Gagandeep Singh gave baseball blow on his left thigh. Gurpreet Singh @ Deepa gave kick blows in his back. Accused Amanjot Singh @ Joyti, petitioner Gagandeep Singh and accused Parminder Singh @ Pindi also gave kick blows to him. He raised noise. Then his cousin brothers Nirmaljit Singh and Ranjit Singh and Jagdish Singh @ Deesa came for his rescue. People also gathered there. Then the petitioner along with co-accused ran away from the spot in their car. He was admitted in Civil Hospital, Jagraon by his cousin brothers for treatment.

5. That the complainant further stated that the reason behind this occurrence is that Charanjit Kaur mother of accused Gurpreet Singh @ Deepa was candidate for the election of Sarpanch. But he (complainant) and his family members cast their votes in favour of Harpinder Kaur who was opposite candidate of Charanjit Kaur. This is the reason accused Gurpreet Singh @ Deepa, petitioner and their companions including the Petitioner Gurwinder Singh have caused injuries to him. On this statement FIR No. 156 dated 20-10-2024 u/s 115 (2), 118 (1), 126 (2), 3(5) and 110 of BNS, 2023 was registered against Gurpreet Singh @ Deepa, Amanjot Singh Joyti, Parminder Singh @ Pindu and petitioner Gurwinder Singh @ Gagandeep Singh in PS Sadar, Jagraon.”

4. The petitioner's counsel seeks bail on parity with Gurpreet Singh alias Deepa and Amanjot Singh Sidhu alias Jyoti, who were granted anticipatory bail by this Court vide

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orders dated 24.01.2025 & 27.01.2025 respectively passed in CRM-M-56872-2024 and CRM-M-511-2025. He further 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 reply.
6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“A. That the role of the petitioner in this case is that he gave baseball blow on the head of complainant Kuldeep Singh with the intention to kill him. Petitioner also gave baseball blow on the left thigh of complainant. The petitioner also gave kick blows on the person of injured when he fell down on the ground along with co-accused.

B. That the statements of the complainant Kuldeep Singh, Eye witnesses Nirmaljit Singh and Ranjit Singh and Jagdish Singh @ Deesa are in evidence against the petitioner.”

REASONING:

7. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.
8. Per paragraph 3 of the bail petition, the petitioner has been in custody since 29.10.2024 and accordingly his custody in this FIR is approximately 04 months.
9. Given the fact that co-accused (as mentioned above) have already been granted anticipatory bail and the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability further 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 FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned 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	
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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. 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. 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.

15. 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.

16. 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

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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.”

17. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

18. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

19. 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.

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

28.02.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.