

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2622-2025
Reserved on: 15.02.2025
Pronounced on: 28.02.2025

Gagandeep Singh @ Gaggu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Dhiraj Jindal, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
307	03.11.2024	Bhawanigarh, District Sangrur	331 (6), 324 (2), 115 (2), 126, 191 (3), 190 of BNS

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. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents. However, per paragraph 9 of the status report filed by the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	247	-	451/323/506/148/149 IPC	Bhawanigarh

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

“2. That pursuant to the said order, it is submitted that case FIR No. 307 dated 03.11.2024 u/s 331(6), 324(2), 115(2), 126, 191(3), 190 of BNS, 2023 P.S. Bhawanigarh was registered against Rinku Singh son of Kaka Singh 2) Devinder Singh @ Davi 3) Pawan son of Kala Singh, 4) Gagandeep Singh @ Gaggu son of Kala Singh 5) Harman Singh son of un-known residents of Majhi and 6) Harpreet Singh son of Gurmukh Singh resident of Lalochhi, P.S. Samana, on the basis of statement of Hassanpreet Singh son

of Mohinder Singh resident of Majhi with the allegations that, on 01.11.2024, he (complainant) and Gurkirat Singh were going on the motorcycle bearing No. PB-84-4965 alongwith his nephew Ekam Singh to purchase the crackers for the occasion of Diwali. At about 9:15 PM, Rinku having iron rod, Davinder Singh having iron rod, Pawan, Gagandeep Singh, Harman Singh empty handed and Harpreet Singh having iron rod stopped them and started to abuse them. When he opposed, they started beating him. Rinku hit with rod on the left side of his head and blood was oozing out and he fell on the road then Harpreet Singh hit with iron rod on the left side of his waist. To save himself, he ran towards village Majha and entered the house of Chamkaur Singh who lived nearby, but the above persons followed him and also entered Chamkaur Singh's house after him. But he closed the door of the room. The above persons standing outside started throwing bricks at him, due to which the glass of the door broke and when the people living in the house resisted, they all with their weapons fled from there, threatening him."

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 status report.

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

"ROLE OF THE PETITIONER

The present FIR was registered against the present petitioner and his 5 other co-accused. During investigation, it was duly proved that on 01.11.2024, the complainant motorcycle No. PB-84-4965 to purchase the fire crackers for the occasion of Diwali. At about 9:15 PM, all the 6 accused including the present petitioner stopped them and started to abuse them. When the complainant opposed, the accused started beating and inflicted two injuries to him. To save himself, complainant ran towards village Majha and entered the house of Chamkaur Singh, but the above accused followed him and also entered Chamkaur Singh's house. But complainant closed the door of the room. The above accused standing outside started throwing bricks at him, due to which the glass of the door broke. Then when the people living in the house resisted, all the accused with their weapons fled from there, threatening him. In this way, Gagandeep Singh @Gaggu (present petitioner) was member of an unlawful assembly and all the accused caused injuries to the complainant during the night time, when he tried to save himself and entered in the house of Chamkaur Singh. So, a specific role is attributed to the petitioner in the commission of present offence."

7. 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.

8. 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.

9. 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 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.

10. 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)	

11. This order is subject to the petitioner's complying with the following terms.

12. 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.

13. 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.

14. 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 be at liberty to cancel this bail.

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

16. 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.

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

(ANOOP CHITKARA)
JUDGE

28.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.