

CRM-M-13285-2025
104

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13285-2025
Decided on: 11.03.2025

Sameer Sabherwal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.L. Chander Shekhar, Advocate
for the petitioner.

Mr. Gurpartap S. Bhullar, AAG, Punjab.

ANOOP CHITKARA, J.

DDR No.	Dated	Police Station	Sections
34	24.06.2024	A Division, Amritsar	452, 427, 148, 149 IPC

IN

FIR No.	Dated	Police Station	Sections
98	24.06.2024	A Division, Amritsar	323, 341, 506, 148, 149 IPC (Section 325 IPC added later on)

1. The petitioner apprehending arrest in the DDR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. Given the nature of allegations, this Court is not asking for any reply from the State as it is clear that there are cross cases and petitioner has one criminal history, which is a cross case of the incident and the same is not for serious offence.
4. The facts and allegations are being taken from the translated copy of DDR, which reads as follows:



CRM-M-13285-2025

"It is recorded that I ASI along with HC Harpreet Singh 3758, Ct Karanpreet Singh 4149, Ct Sandeep Kumar 2407 was present at police station that one complaint has been received from Praveen Kaur wife Gulzar resident of House No. 24/45 Kothi Sham ji Mall Hussainpura, Amritsar. That brief of complaint is that, To SHO, Police Station A Division, Amritsar. Dear Sir, it is request that I am Praveen Kaur W/o Guljar, resident of H. No 24/45 Kothi Sham Ji Mall, Hussainpura, Amritsar. My family had a dispute in a day time with Sonu Sabharwal, resident of Kothi Sham Ji Mall. Then at 10:15 PM, Sonu Sabharwal's son Samir, Ravi's son Ashu, Kadar, Sameer's brother-in-law and unknown persons around 35 entered our house and vandalized the mirror, Fridge, LED, LAPTOP and other items. At that time my daughter Seema was alone in the house. These persons also took gold werth 10 lakhs and 06 lakh cash from the cupboard of my son Rajiv Khokkar @ Billu. They had also taken away our two pet cats. Please action should be taken. Rinku's son Hula was also accompanying them. Sd/- Parveen Kaur 9855518712. On receiving the above said compliant and the case of the complainant is that Sonu Sabharwal resident of Kothi Sham Ji Mall's son Sameer, Ravi's son Ashu, Kader, Sameer's brother-in-law, Rinku's son Hula and unknown persons around 35 and entered inside the house. It is admitted that the goods like LED, fridge, glasses etc., laptop and other goods are found to be broken. In the complaint, it is written that the above person took 06 lakh cash and 10 lakh rupees worth of gold ornaments. Action will be taken regarding the same after verification. Currently, it is found that the offences U/s 452, 427, 148, 149 of IPC is made out from the complaint, regarding this incident earlier one case FIR No. 98 dated 24.06.2024 has been registered, on which the complaint was referred to N/MHC for cross case registration. SIHO and control room should be informed. Myself ASI along with fellow officials, along with complainant left for the spot. Sd/- Hardyal Singh ASI Police Station A Division Amritsar City. Today's Area Police Station A Division At 11:50 PM...."

5. The petitioner's counsel prays for bail on parity with co-accused Sunny @ Kadar and Ashu Sabharwal @ Ashu, who were granted bail by this Court vide separate order dated 07.01.2025 passed in CRM-M-49852-2024 and CRM-M-50083-2024 respectively. 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.

CRM-M-13285-2025

6. The State’s counsel opposes the bail.

REASONING:

7. Given the nature of offence, present DDR is a cross version of main FIR and at this stage, it is impossible to ascertain that who is aggressor. 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.
9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the DDR 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.
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.



CRM-M-13285-2025

13. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this DDR, 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 may 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

11.03.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.