

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-13363-2025
Reserved on: 03.04.2025
Pronounced on: 21.04.2025

Dilbagh Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Kumar, Advocate and
Mr. Akash Rana, Advocate
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

Mr. Imran Farooqi, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
135	16.06.2024	Tanda, District Hoshiarpur	323/324/326/148/149 IPC

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 14 of the bail application and 16 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	124	07.06.2024	363/366/120-B, IPC	Tanda, District Hoshiarpur
2	55	20.06.2017	379/411 IPC	Begowal District Kapurthala

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

“2. That it is submitted that FIR No. 135 dated 16.6.2024. Under Section: 323, 324, 326, 148, 149 of IPC was registered at Police Station: Tanda, District Hoshiarpur against the petitioner and others on the statement of complainant Shamsher Singh that on 7.6.2024 at about 3:30 am, he heard the noise in his house. His sister in law Sarabjit Kaur got up and found that his niece Manpreet Kaur was not in her room. Then Sarabjit Kaur saw outside her house from the boundary

wall and saw that a white coloured Swift car bearing no. PB-29X-1022 was standing in the passage. On the driver seat of the car, Hira Singh and on the other side Bikram Singh @ Bikka were sitting and Manpreet Kaur was standing near Bikram Singh. When Sarabjit Kaur shouted to Manpreet Kaur that what she is doing there, then Bikram Singh grabbed the arm of Manpreet Kaur and sat her in the car at once and took her with him in the car. Sarabjit Kaur raised raula and the rest of his family members also woke up and came. Thereafter his sister in law and brother Balwinder Singh went to the house of Bikram Singh and he went towards village Bulpur, Distt. Gurdaspur to search out Manpreet Kaur. At about 7:30 pm, when he was coming back towards his house and was just behind the house of Bikramjit Singh @ Bikka, then from the side of house of Bikramjit Singh above said car came. He took his motorcycle in the middle of the road and stopped the car. In the meantime Dilbagh Singh and Nirvair Singh came at the spot on their motorcycle and from the driver seat of the car Heera Singh, Bikramjit Singh, Sajjan Singh and Ravinder Singh came down. He asked them to return his niece, but they refused to return her and asked to do whatever he want. When he tried to take out of his niece from the car, then Hira Singh caught hold him from his neck and gave slaps on his mouth. Bikramjit Singh, Sajjan Singh and Ravinder Singh gave fist blows on his face. Dilbagh Singh took out datar from his motorcycle and gave datar blow on his head. In order to save that blow he raised his left hand and the blow hit on the little finger of his left hand. He fell down. Nirvair Singh gave kick blows on his back. He raised alarm. On seeing the gathering, all the accused persons ran away from the spot.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. Counsel for the petitioner submits that they have no objection to imposition of any stringent conditions including surrender of fire arms, if any and not entering the property of the victim and the petitioner shall not repeat the offence where the minimum sentence prescribed is more than 07 years.

5. The State's as well as counsel for the complainant 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:

“EVIDENCE AGAINST THE PETITIONER:

8. That it is submitted that the present case was registered against the petitioner by name on the statement of complainant. The injury caused by the petitioner on left little finger of the complainant was declared to be grievous in nature and offence U/s 326 IPC was added to the present case. The prosecution cited 9 witnesses in the present case, out of them Jarnail Singh son of Harbans Singh is eye witness who saw the occurrence.

ROLE OF PETITIONER:-

14. That it is submitted that the petitioner alongwith his co-

accused caused injuries to the complainant with deadly weapon i.e. Datar. The petitioner gave blow of his dattar on the head of the complainant with an intention to kill him but the complainant raised his left hand in order to save himself, and the dattar hit on the little finger of left hand of the complainant. The injury caused by the petitioner was declared grievous in nature. The recovery of dattar used by the petitioner in the commission of the offence is to be effected from the petitioner. The custodial interrogation of the petitioner is very much required for recovery of dattar and for proper probe. Therefore, the present petition is liable to be dismissed.”

7. As more than 10 months have already passed, the Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.
8. Grievous injury attributed to the petitioner is on little finger. There is sufficient evidence to connect the petitioner with the offence, however, police did not arrest him and prosecution has also failed to make out a case for custodial interrogation. 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. 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.
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. 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 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.
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. 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.

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, 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 firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a 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 and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided otherwise permissible under 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 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. 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.

18. 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.

19. **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.**

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

21.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.