

CRM-M-15016-2025
Date of Decision: 22.04.2025

...Petitioners

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Amandeep Soni, Advocate
for the petitioners.

Mr. Rahul Jindal, A.A.G., Punjab.

Mr. Sahil Puri, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
42	01.02.2025	Kotwali, District Kapurthala	118 (1), 115(2), 126(2), 191(3), 190 of BNS, 2023 (Sections 117(2), 118(2) of BNS added later on)

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 13 of the bail petition, the accused declare that they have no criminal antecedents.
3. Reply dated 19.04.2025 filed by the counsel for the complainant today in the Court is taken on record.
4. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“4 That the instant FIR has been lodged at the instance of Lakhwinder Singh s/o Natha Singh, r/o Village Bhawanipur, PS Kotwali, Kapurthala.

5. That the complainant stated that on 31.01.2025 in the day time at about 1 p.m. after taking his empty Tractor Trolley for loading Cabbage of Kuldeep Singh of village Lamme Pindiya just crossing near Park on south side of village Bhawanipur and because the electricity wires were low



struck with the trolley and one wire broken. Complainant made phone call to mechanic but when he coming back after parked his trolley in the fields then Harpreet Singh Panch who was armed with Iron strip, Billa, Petitioner no. 1 son of Magi empty handed, Tehal alias Sukhdev, Petitioner no. 2 son of Parkash and Sahil son of Surjit both were armed with Dandas, residents of Bhawanipur, one unknown person stopped him and his tractor near Park, waylaid him and alighted him from the tractor. Harpreet gave sharp Iron Strip blow on his nose, Mangi gave Kara blow, Tehal Petitioner no. 2 gave Danda blow on his head, Sahil gave Danda blow on his right leg and gave second blow on his waist, Tehal Petitioner no. 2 gave Danda blow on the back of his shoulder, unknown person gave him pushes.

6. That complainant then raised hue and cry and the assailants ran away from the spot, they torn his clothes and the earning of Cabbage also misplaced, or they took away, which were not found. The cause of grudge is that they feel that complainant has intentionally broken the electricity wire, due to which they have inflicted injuries to complainant. He further prayed for legal action to be taken against them.”

5. State counsel as well as counsel for the complainant opposes bail on the ground that the injury has been attributed to petitioner No.2-Sukhdev Singh @ Tehla, which is on head i.e. vital part of body and corroborated all the medical evidence.

6. After arguing at length, counsel for the petitioners submits that he seeks to withdraw the present petition qua petitioner No.2-Sukhdev Singh @ Tehla. Given such statement, petition stands withdrawn qua petitioner No.2-Sukhdev Singh @ Tehla and now survive qua petitioner No.1 only.

7. Counsel for the petitioners submits that petitioner No.1 would have no objection in case any stringent conditions this Court might put upon petitioner No.1 including surrender of fire arms, and in case, petitioner No.1 repeats the offence, the State shall be liberty to file an application for cancellation of bail. He further contends that pre-trial incarceration would cause an irreversible injustice to the petitioners and his family.

8. The State’s counsel refers to the status report.

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

“B. The evidence against the petitioner

9. That as per the MLR injury No.1 has been attributed to petitioner No.2 i.e. Sukhdev Singh @ Tehal. That petitioner No.1 has been attributed a



kara blow on the face of the complainant.

C. The role of the petitioner

10. That as per the complainant Harpreet Singh Panch who was armed with Iron strip, Billa, Petitioner no.1, son of Magi empty handed, Tehal alias Sukhdev, Petitioner no. 2, son of Parkash and Sahil son of Surjit both were armed with Dandas residents of Bhawanipur, one unknown person encircled the complainant and alighted him from the tractor, Harpreet gave sharp Iron Strip blow on his Nose, Mangi gave Kara blow, Tehal, Petitioner no. 2, gave Danda blow on his head, Sahil gave Danda blow on his right leg and gave second blow on his waist, Tehal, Petitioner no. 2, gave Dada blow on the back of his shoulder, unknown person gave him pushes.”

REASONING:

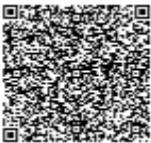
10. Petitioner No.1 was empty handed and no injury is attributed to him, as such, no ground is made out to deny him bail. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court 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.

11. 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 No.1-Gurpreet Singh @ Bila makes a case for bail.

12. The investigation indicates that the petitioner No.1 is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

13. Given above, provided the petitioner No.1 is not required in any other case, the petitioner No.1 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 Ilaka 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.

14. While furnishing a personal bond, the petitioner No.1 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)	

15. This order is subject to the petitioner’s complying with the following terms.
16. The petitioner No.1 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 No.1 shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner No.1 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 No.1 shall not be subjected to third-degree, indecent language, inhuman treatment, etc.
17. The petitioner No.1 shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner No.1 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.
18. Given the background of allegations against the petitioner, it becomes paramount to protect the members of society, complainant/victim 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 from today 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 it is 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.
19. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense and also to block the menace of drug



abuse. 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."

20. 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.

21. **This bail is conditional, and the foundational condition is that if the petitioner No.1 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.**

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

23. 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.

24. **Petition qua petitioner No.1-Gurpreet Singh @ Billa is allowed and petition qua petitioner No.2-Sukhdev Singh @ Tehla is disposed of as having been withdrawn.** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

22.04.2025

Jyoti-II

Whether speaking/reasoned: Yes

Whether reportable: No.