

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18101-2025
Reserved on: 06.05.2025
Pronounced on: 19.05.2025

Sonu Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Jain, Advocate
for the petitioner (through V.C.)

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
247	29.04.2024	Barwala, District Hisar	302/34/342 IPC (Section 302 IPC deleted and 304-ii IPC added later on)

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. The petitioner has not disclosed criminal antecedents; however, the representing counsel states on instructions that the accused has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“That the brief facts of the case are that on 29.04.2024, the police received information that Satish Kumar, son of Pala Ram, was brought dead to MAMC, Agroha, after being referred from CHC Barwala due to sustaining injuries. Accordingly, the police party reached MAMC, Agroha. After some time, the family members of the deceased arrived. The brother of the deceased, Monu alias Jony. recorded his statement, wherein he stated that on 29.04.2024, at around 5:00 AM, he received a call from his brother's mobile number. The caller informed him that his brother, Satish, had forcibly entered their house and inflicted injuries on his parents and the female members of the family. The caller requested him to take Satish back. The complainant stated that he would revert after consulting with his family members. Around 7:00 AM, he received a call from Barwala police. However, due to certain reasons, they were unable to reach Barwala. Later, they received information from the police as well as the Sarpanch that Satish

Kumar had been brought dead to the hospital. Accordingly, they reached MAMC, Agroha, and observed multiple injuries on various parts of the deceased's body. Upon inquiry, they came to know that Prem, Anoop, Pooja, and Bhateri had inflicted injuries on his brother after unlawfully detaining him. Based on these allegations, the complainant requested legal action against the accused. Acting upon the contents of the statement and considering the injuries reflected in the Medico-Legal Report (MLR), an FIR bearing No. 247 dated 29.04.2024 was registered under Sections 302, 34, and 342 of the Indian Penal Code (IPC) at Police Station Barwala, District Hisar.”

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.

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:

“4. That after the registration of the FIR, a fair and impartial investigation was conducted by the local police. During the course of the investigation, the crime scene team collected physical evidence, including a rope, blood-stained earth, and a piece of navaar from the cot. The post-mortem examination of the deceased was conducted from the board of doctors at MAMC, Agroha, on 30.04.2024. That the doctor provided certain samples, including viscera, which were duly taken into possession. That the family members of the deceased refused to accept the dead body, and consequently, the deceased's body was placed in the mortuary. Copies of MLR and PMR of deceased are annexed as Annexure R-1 and R-2.”

7. Counsel for the petitioner made the following arguments:

- i. petitioner not named in FIR;
- ii. two FIRs registered pertaining to same incident;
- iii. deceased had caused injuries to the father of the co-accused by trespassing in house of co-accused;
- iv. Petitioner was neighbourer and had no direct involvement;
- v. petitioner has been roped in by way of extra judicial confession of petitioner made to some drivers from whom police got information;
- vi. in MLR, total 11 injuries were mentioned, however in PMR, the injuries were increased to 19. Lacerated wounds have been shown as punctured wounds which shows that either the dead body was interfered with or PMR is incorrect or initial MLR was incorrect; and
- vii. Deceased family were pressurizing the Investigator and SHO because of which police acted under pressure and did not conduct fair investigation.

8. Perusal of the status report does not refer to any motive for the petitioner to commit murder. There is not even any pre-mediation or reason to cause death or even to commit culpable homicide to cause death. It appears that it was a case of intruder who was beaten up where the injuries which were inflicted were more than which were required to cause death. This aspect of the case is also supported from para no.8 of the status report which reads as follows:-

“8. That during the investigation, the RFSL, Hisar report dated 22.07.2024 was received, wherein it was opined that 'Blood was detected on Exhibit-2 (Danda), Exhibit-3 (Swab), Exhibit-4 (Swab), and Exhibit-5 (Swab). However, blood could not be detected on Exhibit-6 (Charpai Nivar). Exhibit-7a (Shirt), Exhibit-7b (Pant), Exhibit-8a (Shirt), Exhibit-8b (Pajami), Exhibit-8c (Underwear), and Exhibit-9 (Rope) were found to be stained with blood. A copy of the RFSL, Hisar report is annexed herewith as Annexure R-3.”

9. It would be appropriate to refer to para 11 (D) (E) and (F) of the status report which reads as follows:

“11. That Reply with the required headings are below:-

D) The evidence based on which the petitioner was arraigned as an accused: *The extra-judicial confession made before independent witnesses, namely driver Binder, Jaiprakash, Manjeet, Dhola alias Bansilal, and Vinod by the petitioner/accused Sonu, in which these witnesses stated in their respective statements that the petitioner/accused Sonu had come to the Anaj Mandi and was publicly asserting that a thief had broken into his house at 4:00 AM, and that he had assaulted the said thief and also the Disclosure statement of co-accused Anoop.*

E) The evidence against the petitioner: *The extra-judicial confession made before independent witnesses, namely driver Binder, Jaiprakash, Manjeet, Dhola alias Bansilal, and Vinod by the petitioner/accused Sonu, in which these witnesses stated in their respective statements that the petitioner/accused Sonu had come to the Anaj Mandi and was publicly asserting that a thief had broken into his house at 4:00 AM, and that he had assaulted the said thief and also the Disclosure statement of co-accused Anoop.*

F) The role of the petitioner: *The PMR of the deceased clearly establishes that he sustained 19 injuries on various parts of his body, which led to his death. The petitioner/accused's house is adjacent to that of the other co-accused, and he was equally involved in the present case.. The recovery of the weapon used in the commission of the offence is yet to be effected from him.”*

10. Given above, it is neither a case for pre-trial incarceration nor custodial interrogation. In case, the petitioner is found to have exceeded the right of private defence, the trial Court will take care of it. There is no prima facie evidence to send the petitioner for custodial interrogation more particularly for the reason that petitioner is a first offender and has undertaken to abide by conditions.

11. 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.

12. 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.

13. 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 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 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 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.

17. 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.

18. Given the background of allegations against the petitioner, it becomes paramount to protect 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 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.

19. 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."

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

(ANOOP CHITKARA)
JUDGE

19.05.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.