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

CRM-M-19021-2025
Date of Decision: 21.04.2025

Gagandeep @ Gaggi ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Jagjit Singh Gill, Advocate,
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
0018	24.02.2024	Baragudha, District Sirsa	379 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. Status report dated 19.04.2025 filed by State counsel is taken on record.
3. Per paragraph 12 of the bail petition and paragraph 11 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	54	30.04.2022	174-A IPC	Baragudah
2.	68	29.04.2018	147, 148, 323, 341, 427, 506 IPC	Baragudah
3.	56	05.04.2020	160/188 IPC	Baragudah
4.	30	08.05.2019	21 of NDPS Act	Rori
5.	123	2022	-----	Sadar Sirsa
6.	45	2020	-----	Kalanwali

4. The facts and allegations are being taken translated copy of FIR annexed with the bail petition as Annexure P-2, which reads as follows:

“To the SHO Sahib police station Baragudha District Siursa, subject:-for registration of theft report of motor cycle, sir, it is prayed that I Sukhwinder singh son of Balbir singh is permanent resident of village Tilokewala District Sirsa, that I am having motor cycle No. HR02D-4830, which I have purchased from my relative Gurjeet Singh one month ago



and the same is in his name still and I taken that motor cycle to the house of Sarup singh son of Shri Geja Singh village Sukhchain in the night of 22.02.2024 at Bhandara, so many people were visiting there due to Bhandara and I was also busy in Bhandara and from infront of the house some unknown person stolen my above said motor cycle bearing Chasis No.971003066 Engine No.97F20E05918, we tried to search the same at our level but could not found, hence it is prayed to you for finding my motor cycle and legal action be taken against the thieves.”

5. The petitioner's counsel prays for bail by imposing any stringent conditions that in case petitioner repeats the offence where the sentence prescribed is more than three years, then State can file an application for cancellation of bail and petitioner shall not object to that petition. He further contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. 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 his family.

7. The State's counsel opposes bail and refers to the status report.

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

“5. That during the course of investigation on 06.03.2024, accused Lakhwinder Singh @ Mahakdeep Singh son of Jasbir Singh and accused Sarabjit Singh @ Sarbi son of Hardev Singh, residents of village Sukhchain, were apprehended alongwith stolen motorcycle. During investigation accused Lakhwinder Singh @ Mahakdeep Singh and accused Sarabjit Singh @ Sarbi suffered their respective disclosure statements admitting their involvement in the commission of crime including petitioner/accused Gagandeep @ Gaggi and got demarcated the place from where they had stolen motorcycle of complainant in the night of 22.02.2024. Copies of disclosure statements of accused Lakhwinder Singh @ Mahakdeep Singh and Sarabjit Singh @ Sarbi are annexed herewith as Annexures R-1 and R-2 respectively.”

REASONING:

9. Challan against the co-accused has already been filed and no recovery remains, as such, prosecution 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.

10. 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.

11. 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.

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

14. 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.

15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner 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.



16. 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.

17. ***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.***

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

21.04.2025

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.