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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19623-2025
Date of Decision: 02.05.2025

Shamsher Singh @ Shera

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sarbjit Singh, Advocate
for the petitioner.

Mr. Jasdev Singh Thind, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
272	13.12.2023	Gharinda, District Amritsar Rural	326/34 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. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by State, which reads as follows:

“2. That the brief and relevant facts of the case are that aforesaid FIR No.272 dated 13.12.2023 was registered on the basis of the statement of Balwinder Kaur wife of late Balwant Singh, who had alleged therein that her husband expired in year 2022 and she had given the ancestral land of her husband to Baldev Singh and Sukhchain Singh on lease but Jaswant Singh and other relatives of her hushand used to fight with her relating to land. She further alleged that on 17.11.2023 at 12:00 PM, she and her daughter Jaijkepreet Kaur had gone to their house at their land and in the meantime, the petitioner armed with a dattar, co-accused Arshdeep Singh, Gurbhej Singh and Sandeep Singh empty handed came over there and the co-accused Gurbhej Singh raised a lalkara to catch hold of them for entering into land dispute with them and pushed her down on the ground. She further alleged that while she was lying on the ground, the petitioner caused injury on her right leg with a blow of a dattar and the co-accused Arshdeep Singh and



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Sandeep Singh kept on kicking her. She further alleged that when she raised hue and cry, all the aforesaid accused fled away from the spot. The detailed facts mentioned by Balwinder Kaur in his aforesaid statement has been reproduced in the true translation of the aforesaid FIR No.272 dated 13.12.2023 attached with the petition as Annexure P-1, which may kindly be read as a part of present paragraph and the same are not repeated here for the sake of brevity.”

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.

6. It shall be appropriate to refer to the following portion of status report which reads as follows:

“Role of the petitioner

6. That as per the version of the complainant Balwinder Kaur, the petitioner after sharing a common intention with the other nominated co-accused had attacked upon her. The petitioner is attributed injury on the right leg, which is declared grievous in nature.”

7. Allegations against the petitioner are that he along with co-accused gave injuries to complainant on right leg.

8. An analysis of the arguments would lead to the outcome that since the petitioner has joined the investigation and has produced the weapon of offence, there would be no justification for further 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, petitioner was not named in FIR 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.

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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. 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.

15. 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.

16. 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.



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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

02.05.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.