

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20375-2025
Reserved on: 06.05.2025
Pronounced on: 19.5.2025

Lakhveer Singh @ Kaka ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Sukhwinder Singh Rai, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
56	28.04.2024	Civil Lines Bathinda, District Bathinda	308, 341, 323, 427, 148, 149 IPC

1. The petitioner incarcerated in the FIR captioned above came before this Court second time under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the translated copy of FIR (Annexure P-1) which reads as follows:

“Statement of Sukhmander Singh @ Mander Singh son of Joginder Singh, resident of St. No. 20, Lal Singh Basti, Bathinda aged about 29 years, Mob. No. 91159-xxxxx, stated that I am resident of above said address and I am doing work of Tailor. On dated 28.04.2024, I was boarded in School Van No.PB03AF-3222 along with my companions from Street No.7, Lal Singh Basti, Bathinda to attend the election rally of Biba Harsimrat Kaur Badal at Green Palace. There Biba Harsimrat Kaur Badal had given speech and went away. We were boarded in the same van and coming

back to our house. At 2:30 PM, our van reached at gate no.3 of Sports Complex Bathinda 8/10 young men were on motorcycles and scooters armed with swords, rods, baseball and iron pipes and surrounded our school van and broke the glasses of van and driver Nirmal Singh opened the window and ran away. Some persons entered into the van, raising lalkara and given beatings and said that you have quarreled with their friend Pina and in future do not dare to look at Pina. Vikram @ Kaufi son of Yupa Singh resident of Chandsar Basti, Bathinda given blow of his iron rod at my head. Then Yadwinder Singh @ Pina son of Jaskaran Singh resident of Chandsar basti, Bathinda given blow of his baseball at the elbow of my right arm. Then Vineretu son of Ram Nath resident of Chandsar Basti, Bathinda given blow of his sword at my right bicep. Other persons also given me beatings. Then given beatings to Lavdeep Singh @Dodi resident of Chandsar basti, Bathinda, Lakhvir Singh @ Kaka son of Avtar Singh resident of Bir Road Bathinda, Gurjot Singh @ Jot son of Harbhupinder Singh resident of Matti Das Nagar, Bathinda, Mani Singh @ Labha son of Jora Singh resident of Chandsar basti, Bathinda, Abhi @Goli son of Tara Chand resident of Kamla Nehru Colony Bathinda, Happy son of Shinda Singh resident of Chandsar basti, Bathinda and Samir son of Nika Singh resident of Udham Singh Nagar, Bathinda given beatings. When we all raised noise "MARTA MARTA" all the above said persons ran away on their vehicles with their weapons. Then the other persons boarded in the van got me admitted in civil hospital Bathinda. Samir had suffered multiple injuries and therefore he was referred to higher hospital. The reason behind the grudge is that a boy named Pina had quarreled somewhat in the rally. Pina called his friends, surrounded the van, inflicted injuries and caused damage to the van. Legal action be taken against Yadwinder Singh @ Pina son of Jaskaran Singh, Vikram Singh @ Kaufi son of Yupa Singh, Vineretu son of Ram Nath, Lavdeep Singh @Dodi son of Nachhattar Singh, Mani Singh @ Labha son of Jora Bathinda, Happy son of Shinda Singh resident of Chandsar Basti, Bathinda, Lakhvir Singh @ Kaka son of Avtar Singh resident of Bir Road, Bathinda, Gurjot Singh @ Jot son of Harbhupinder Singh resident of Mati Das Nagar, Bathinda and Abhi son of Goli son of Tara Chand, resident of Kamla Nehru Colony, Bathinda. I have recorded my statement, which is read over and is correct."

4. Counsel for the petitioner submits that he has no objection if this Court while granting bail imposes any stringent conditions including surrender of fire arms, if any, and shall not enter the place of the victim/complainant. On instructions, counsel further

submits that petitioner shall not repeat the offence and would not involve himself in the offence, where the sentence is more than 7 years and if he does so, he has no objection if the State files an application for cancellation of bail. He further contends that further 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 reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“10. The role of the petitioner

During the investigation, it has surfaced that both the accused-petitioners in connivance with co-accused had beaten up the complainant and injured Samir as mentioned above and they had also ransacked the glass of the case property van.

11. The evidence against the petitioner

As per the respective statements of the complainant Sukhmander Singh and victim Samir, the accused-petitioner, in connivance with the co-accused, had inflicted injuries upon the complainant and victim Samir brutally.”

REASONING:

7. Allegations against the petitioner are that he along with his co-accused inflicted injury to the victim/complainant. However, as per status report no weapon was used and no specific injury was attributed to him. In addition to that Complainant- Sukhmander Singh and Victim Sameer Singh have also turned hostile before the trial Court. Moreover, given the undertaking by counsel for the petitioner that in case the petitioner repeats the offence, where the sentence prescribed is seven years or more, then the State may file an application for cancellation of bail, as such, petitioner is entitled to bail.

8. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

9. Per paragraph 05 of the bail petition, the petitioner has been in custody since 28.04.2024. Per the custody certificate dated 05.05.2025, the petitioner's total custody in this FIR is 01 year and 05 days.

10. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, role of petitioner, the fact that the witnesses turned hostile and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

11. 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.

12. 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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. 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)	

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

15. The petitioner is directed to join the investigation 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. 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.

16. 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.

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 (CrI.) 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 victim, and their family members, as well as 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 firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond 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 release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in 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. 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.

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 have the 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-II

Whether speaking/reasoned: Yes
Whether reportable: No.