



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CRM-M-28040-2025
Date of Decision:21.05.2025

Gurmail Ram @ Gailu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mudit Johar, Advocate for
Mr. Abhimanyu Singh, Advocate for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
33	22.04.2025	Behram, District SBS Nagar, Punjab	115(2), 118(1) of BNS (Section 118(2) 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. In Note 3 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from para No. 2 of the bail petition, which reads as follows:

"Statement of Sodhi s/o Tarsem Lal Resident of village Sandhwan Police station Behrampur District Shahid Bhagat Singh Nagar, age about 43 years, Mb no.84270-84850. Stated that I am resident of above said address and is doing labourer work. On 19.04.2025, time about 8:30 pm, I was present in my house then in the mean time Gurmail Ram alias Golo son of Jeetram resident of our village came to my house and said to me to come out from the house as he want to talk to me, then I came out from the house and went towards the main street, where Gurmail Ram alias Gailo started giving beatings to me without any conversation and he gave kirch blow on my person and the same was hit on the left side of my chest and on my left side of backbone and due to this reason I fell down on the ground. Then he again gave kick blows on left side of my chest and left side of my backbone



while I was lying on the ground and then I raise alarm loudly as to 'Mar Ditta' and then in the mean time my brother Surinder Pal also reached there and then he ran away from the spot. My brother while seen my condition, arranged conveyance and got admitted me to Civil hospital Banga and there after, the said doctor referred me to civil hospital Nawanshahr, where I got my treatment and then again be come to civil hospital Banga. Yesterday on 21.04.2025 I was referred to Civil Hospital Jalandhar by the doctor where I am under treatment. Motive of enmity is that altercation took place between me and Gurmail Ram alias Gailo about 4-5 days ago and at that time I said to him that you should not stand in the street without any reason and due to this grudge he caused injuries to me. Legal action be taken against Gurmail Ram alias Gailo. Statement recorded read over to me and same is correct."

4. Counsel for the petitioner submits that he would have no objection in case any stringent conditions this Court might put upon the petitioner including surrender of fire arms, if any; not enter the property of the victim/complainant and in case, petitioner repeats the offence, where the sentence prescribes 07 years or more, the State shall file an application for cancellation of bail. He further contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State's counsel opposes bail on instructions.

REASONING:

6. There is sufficient evidence to connect the petitioner with the crime, but it is not a case for custodial interrogation as recovery of weapon can be effected by joining the petitioner into investigation. 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.

7. Given the above, the penal provisions invoked coupled with the primafacie 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.

8. 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.

CONDITIONS:



9. 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.

10. 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)	

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

12. 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 and he shall cooperate in the recovery of weapon. 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.

13. 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 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.

14. 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.

15. 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."

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. 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.

18. **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.**



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

20. 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.

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

(ANOOP CHITKARA)
JUDGE

21.05.2025

Jyoti-II

Whether speaking/reasoned: Yes

Whether reportable: No.