

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-28085-2025
Date of Decision:21.05.2025

Sukhwinder Singh @ Rachhpal Singh ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Lakhwinder S. Sidhu, Advocate
for the petitioner.
Ms. Navreet Kaur Barnala, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
20	06.04.2025	Jaurkian, District Mansa	126(2), 191(3), 190, 115(2), 324(4) of BNS and 25 of Arms Act

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 para 10 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offences	Police Station
1.	91	15.05.2022	364, 341, 427, 148, 149, 379, 120-B IPC	Talwandi Sabo, District Bathinda
2.	23	03.02.2025	420 IPC	Talwandi Sabo, District Bathinda

3. The facts and allegations are being taken from the translated copy of FIR (Annexure P-1) which reads as follows:

"Statement of Gursewak Singh alias Illi son of Maghar Singh son of Lal Singh, resident of Raipur, aged about 36 years, mobile No. 97795-61319. Stated that I am resident of aforesaid address. I am an agriculturist. On dated 05.04.2025, time was about 10:00 AM, that I and my father Maghar Singh were going towards Jaggi Flour Mill from



our home on our motorcycle Deluxe No. PB-31-N-2928 that on the circular road, Khuh Wala Chowk, my nephew Tejwinder Singh and my cousin (son of my Taya) Nirmal Singh were standing. When we reached near the puncture repair shop of Sarwan Singh on our motorcycle then one Scorpio vehicle, of white colour, No. HR-22-P-9987 came from the opposite direction which was being driven by Ravneet Singh son of Baltej Singh, resident of Makha. On the front seat of the vehicle Raju Singh Sarpanch was sitting. They intercepted our motorcycle with their vehicle. Raju Singh Sarpanch son of Jag Singh was holding double barrel rifle. He came down from the vehicle and from the rear doors Kulvir Singh son of Raju Singh, who was holding GANDASA in one hand and revolver in the other hand and Rachhpal Singh son of Gurmeet Singh, who was holding SOTI in his one hand and pistol in the other hand and Gurwinder Singh alias Babbu son of Bogha Singh, who was holding iron pipe fitted with flywheel and Jasvir Singh son of Sukhdev Singh, resident of Raipur, who was empty handed, came out of the vehicle. Raju Singh Sarpanch raised LALKARA that during the PANCHAYAT elections they have helped Nirmal Singh, so they should be taught a lesson. In the meantime Raju Singh Sarpanch gave butt blow of rifle held by him in my stomach. I and my father, along with motorcycle, fell down. In the meantime Kulvir Singh gave a blow of GANDASA, held in his hand, towards me. I stepped back and the blow fell on the fallen motorcycle. With this blow my motorcycle No. PB 31N 2928 suffered huge loss. Thereafter Kulvir Singh gave blow of GANDASA, held in his hand, towards my father Maghar Singh. My father extended his left hand to save himself. The blow hit on his left hand thumb. In the meantime, when I tried to get up then Rachhpal Singh gave blow of SOTI, held in his hand, towards me. The blow landed on the back of my head. Then I fell down. While I was lying down Gurwinder Singh alias Babbu gave blow of iron pipe fitted with flywheel, held in his hand, on my right arm. Thereafter Raju Singh Sarpanch gave butt blow of his rifle on my nose. Thereafter Ravneet Singh son of Baltej Singh, resident of Makha, also came down from the vehicle. He gave fist and kick blows to me and my father. Thereafter Jasvir Singh son of Sukhdev Singh, resident of Raipur, who was standing nearby, gave fist and kick blow to me and my father. I and my father raised the RAULA of "Maar Ditta Maar Ditta". On hearing our RAULA Nimral Singh son of Babu Singh and Tejwinder Singh son of Ajaib Singh, resident of Raipur, came on the spot. In the meantime all these persons fled away from the spot, in their vehicle, alongwith their



respective weapons. Thereafter Nirmal Singh arranged for the vehicle and got me and my father Maghar Singh admitted at Civil Hospital, Mansa for treatment. There Doctor Sahib gave treatment to us. Due to severe injuries I was referred to AIIMS Hospital, Bathinda for treatment, where I am under treatment. Legal action may kindly be taken against Raju Singh Sarpanch son of Jag Singh, Kulvir Singh son of Raju Singh, Rachhpal Singh son of Gurmeet Singh, Gurwinder Singh alias Babbu Singh son of Bogha Singh, Jasvir Singh son of Sukhdev Singh, residents of Raipur and Ravneet Singh son of Baltej Singh, resident of Makha. The motive is that during the PANCHAYAT elections we had helped Nirmal Singh son of Babu Singh. Because of this reason they have acted in connivance with each other and have inflicted injuries after intercepting us. I have got recorded my statement, the same has been read out to me and 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 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.

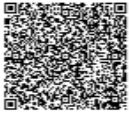
REASONING:

6. Allegations against the petitioner are that he was holding SOTI and inflicted one blow on the person of the victim. Given the role attributed, it is not a case for custodial interrogation.

7. 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.

8. 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.

9. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-



accused with a higher role.

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.

CONDITIONS:

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. 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.

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. 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.

16. 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."

17. 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.

18. 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.

19. **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.**

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



21. 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.

22. **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.