

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38152-2024
Reserved on: 11.03.2025
Pronounced on: 21.03.2025

Lovepreet Sharma @ Labhi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

Mr. G.S. Verma, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
108	09.06.2024	Bhikhi, District Mansa	307, 341, 323, 148, 149, 120-B, 427 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 18 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from FIR translation of which is reproduced in para no.1 of petition, which reads as follows:

“Copy of statement. Statement of Jagshir Singh son of Gurpiar Singh son of Chand Singh, resident of Beer Khurd, aged about 38 years, M.No.94177-78449. Stated that I am a resident of above mentioned address and an agriculturist. We are two brothers and five sisters. All are married. Yesterday i.e. on 08.06.2024, at about 1.30 PM, I was irrigating my paddy crops in barmi fields with a motor. My younger brother Jaswant Singh along with Maninder Singh son of Jagshir Singh of our village, were returning back to the village from Bhikhi on my motorcycle bearing registration No.PB-31R-4911 make Bullet after finishing his domestic work. When my brother Jaswant Singh reached in front of my fields, then one white coloured Bolero in which

8-9 persons were sitting came from the side of Bhikhi and within my view hit the motorcycle of my brother from back side with great force. Both the persons fell down from the motorcycle. Maninder Singh was driving the motorcycle and my brother was pillion rider. Suddenly 8-9 persons came out from the Bolero armed with gandasi, swords, rod and dandas. They chased my brother Jaswant Singh and Maninder Singh in order to cause injuries. Maninder Singh ran towards the right side of road and my brother Jaswant Singh ran towards the motor. 3-4 persons were chasing Maninder Singh. They caused injuries to Maninder Singh. 4-5 persons also chased my brother. My brother Jaswant Singh raised raula mar-dita', 'mar-dita'. They encircled my brother Jaswant Singh, stopped Bolero and blocked his way. Out of them Kirach son of Bhola Singh, resident of Beer Khurd, armed with gandasa, Gursewak Singh son of Nachhattar Singh, resident of Beer Khurd, armed with sword, Kaka Singh Khoriwala, resident of Dhepai armed with gandasa, Jugnu Singh son of Swaraz Singh, Laddi son of Bittu Singh, residents of Beer Khurd armed with dandas and Gurpreet Singh @ Thori son of Gurtej Singh, resident of Bhikhi armed with iron rod in connivance with each other and with the intention to kill my brother Jaswant Singh caused injuries on his head, forehead, backside of head, legs and arms with their respective weapons. I also raised raula mar-dita' mar-dita'. The above mentioned accused along with their respective weapons boarded Bolero car and went away from the spot towards Bhikhi side. Thereafter, I sent message to my relatives in the village, brought a vehicle at the spot and got admitted my brother Jaswant Singh and Maninder Singh in Govt. Hospital, Mansa. Due to serious injuries my brother Jaswant Singh was referred. We arranged the ambulance and got my brother Jaswant Singh admitted in DMC, Ludhiana. My brother is unconscious. Today he is being operated. They have also damaged our bullet motorcycle. The reason of grudge is that about 7-8 years ago, a fight had taken place between my brother Jaswant Singh and Gursewak Singh son of Nachhattar Singh etc. in the ground of village and due to this reason above mentioned accused Gora Singh @ Kirach, Kaka Singh, Kheriwala, Jugnu Singh, Laddi Singh, Gursewak Singh, Gurpreet Singh Thori and 3-4 unknown persons have caused to my brother Jaswant Singh and Maninder Singh. Legal action be taken against them, FIR be registered and justice be given to us. Sd/ above mentioned Jagshir Singh.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions including surrender of fire arms, if any.
5. The State's counsel opposes bail and refers to the status report.
6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“On 16.07.2024, statement of injured Jaswant Singh was recorded by the IO. In the statement Jaswant Singh had mentioned similar facts to that of the statement got recorded by complainant Jagsir Singh.

However, injured Jaswant Singh had specifically named the names of 03 unknown accused persons to be Monu Singh son of Jarnail Singh, Petitioner Lovepreet Sharma @ Labhi son of Heera Singh, both residents of Bareta, District Mansa and Munshi Singh resident of Talwandi Sabo, District Bathinda. On which, above named accused persons namely Monu Singh, Petitioner Lovepreet Sharma @ Labhi and Munshi Singh were nominated as accused in the present FIR, vide DDR No.32, Dated 16.07.2024. It is further submitted that as per the statement of injured Jaswant Singh injury No.1 to 3 was found to be inflicted by accused Jugnu Singh, Injury No.4 & 5 were inflicted by Haracharnjit Singh @ Gora, apart from injury No.4 & 5 accused Harcharanjit Singh @ Gora had also inflicted the blow of his armed gandasi on his head with the intention to kill him, one blow of which landed in the middle portion of his head and another blow landed on his forehead, Injury No.6 to 11 were inflicted by Gursewak Singh, Injury No.12 to 16 were inflicted by Gurpreet Singh @ Thori, Injury No. 17 to 19 were inflicted by Prem Singh @ Laadi and Injury No. 20 & 21 were inflicted by Maninder Singh @ Munshi. Copy of MLR report of injured Jaswant Singh is Annexure R-1 and copy of Radiodiagnosis report is Annexure R-2.”

7. Counsel for the petitioner submits that the injury attributed to the petitioner is on the person of Manjinder Singh who was although hospitalized but has absconded from the hospital before the doctor could have examine him. He further submits that the other victim namely Jaswant Singh remained hospitalized for 12 days but the injury on his person is not attributed to the petitioner.

8. Counsel for the complainant opposed the bail on the ground that as many as 21 injuries were received but counsel for the petitioner submits that none of the injuries is attributed to the petitioner. He further submits that he has no objection to imposition of any stringent conditions while granting bail.

9. 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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

11. 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. 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.

12. 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 Ilqa 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.

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 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.

16. 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.

17. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, 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 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 of release from prison 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.

18. 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."

19. 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.

20. 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 be at liberty to cancel this bail.

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

22. 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.

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

(ANOOP CHITKARA)
JUDGE

21.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.