

CRM-M-40739-2024
Reserved on: 16.01.2025
Pronounced on: 30.01.2025

...Petitioner

State of Punjab

...Respondent

Present: Mr. Vishal Munjal, Advocate for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

Mr. S. K. Choudhary, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0071	01.08.2024	Taragarh Tehsil and District Pathankot	324(4), 303(2) and 3(5) BNS

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. Per paragraph Note 3 of the petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	23	14.03.2022	452,323, 148,149 and 506 IPC	Taragarh, District Pathankot

3. The facts and allegations are being taken from the translated copy of FIR attached with the bail petition, which reads as follows:

“Statement of Vijay Saini son of Daljit Kumar, resident of Sehora Kalan aged 61 years Mobile No.88665xxxx stated that I am resident of above mentioned address and an agriculturist. Yesterday on 31.7.2024 my car make FIGO bearing No.HP 474342 was parked outside my house. Time around 10.30 PM loud noises were heard as somebody is breaking something. When I came out and saw my car was totally damaged in which three

glasses, two headlights and bonnet etc. were broken. When I opened the car and saw the dashboard was open and they had taken away Rs.40000/- cash denominations of Rs.500/- notes. I have full suspicion on one of the preparators of this incident, whose name is Rahul son of Sham Lal, Village Sehora. To see this incident, the cameras installed in the Village can be checked in which these accused have been seen. Apart from this incident, they have also vandalized Sushil (Laddi's) shop. I request you to take legal action against these accused and give me justice."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. Petitioner's counsel made further submissions which are as follows:-

"That the alleged occurrence took place on 31.7.2024 at about 10.30 PM and the present FIR was registered on 1.8.2024 only against Rahul son of Sham Lal. The present petitioner was falsely nominated in the FIR vide Rapat No.26 dated 7.8.2024 i.e. after 07 days from the alleged occurrence.

The CCTV footage which has been produced by the Complainant before the Learned Additional Sessions Judge clearly shows that the CCTV footage is not clear and is not sufficient to prove that the Petitioner was present at the place of occurrence. Moreover, it is also relevant to mention here that the present FIR was registered on 1.8.2024 at that time also the CCTV footage was available with the Complainant but the petitioner was only nominated in the present FIR on 7.8.2024 that too after 7 days from the alleged occurrence just to implicate him in a false case.

That the photographs of CCTV footage is available with the Petitioner. In the said photograph, no one is visible and all the pictures which was obtained from CCTV footage are hazy.

The complainant also alleged in the FIR that the shutter of Sushil Laddi have also been vandalized but the Sushil @ Laddi have never made any complaint against the Petitioner or any other person to the Police with regard Laddi to the vandalizing the shutter of the shop of the Sushil @ Laddi.

The petitioner has been falsely implicated in the FIR due to political vendetta since the Petitioner belongs to the Congress Party and the present Complainant namely Sh Vijay Saini belongs to the ruling Aam Aadmi Party. The present petitioner who is Graduate is in a fray to contest the panchayat election of the Village Sehora Kalan on the congress ticket due to which he has been implicated in a false case by the Complainant who is from the ruling party."

6. The State's counsel opposes bail and refers to the reply.

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

"6. That on the perusal of the report of the Station House Officer, Police Station Taragarh as well as the record, the following points have come on record, which are mentioned here in below for the kind perusal of this Hon'ble Court :-

A. Role of the Petitioner:-

a) That the present FIR is registered on the statement of Vijay Saini son of Daljit Kumar resident of Sheowara Kalan, Tehsil and District Pathankot. The complainant GISTRATE leveled allegation that his vehicle bearing number HP-47-4342 Figo car was vandalized by the miscreants. The incident is recorded in the CCTV camera installed. The petitioner along with accused Rahul is seen in the said CCTV footage recovered by the police and stored in a pendrive. The said CCTV footage was played in the court of Ld. Session Judge Pathankot wherein the accused are seen running with weapons and one of the accused is seen hitting the shutter of the shop. As per investigation done by the police it is revealed that the petitioner is part of the group which has damaged the car of the complainant and was creating unlawful scene at night.

B. The Evidence against the petitioner :-

a) That the CCTV footage was taken into police possession on 07.08.2024 from the complainant. The CCTV footage was verified and on verification it was found that one of the miscreants is the petitioner. The investigating officer had recorded the statement of the inhabitant of the village who have identified the petitioner in the CCTV footage."

8. The petitioner's conduct pointed out that he is unworthy of being a member of civilized society. However, considering the nature of allegations, this Court does not deem it appropriate to send the petitioner for custodial interrogation or Pre-trial incarceration.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

10. 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.

11. 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, subject to the compliance of terms and conditions mentioned in this order.

12. 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.

13. 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.

14. 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)	

15. 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.

16. 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.

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

30.01.2025
M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No.