



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207-1

CRM-M-50884-2024
Decided on: 08.04.2025

Surender @ Surender Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohit Rathee, Advocate,
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. S.S. Momi, Advocate for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
231	22.09.2024	Sahlawas, District Jhajjar, Haryana	351(3), 3(5), 126, 117(2), 115, 110 of BNS, 2023

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 8 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 annexed with the bail petition as Annexure P-1, which reads as follows:

“To the Chowki Incharge Matanhail Sir it is submitted that I Mahabir s/o Preet Singh r/o Village Matanhail and doing work of agriculture. That today at about 8:15 AM I was going to field from my home. That Surender s/o Ratan Singh was constructing boundary wall in our field. That earlier also quarrel takes place on above said boundary wall. That my son Harsh and wife Rajni asked Surender that why are you constructing boundary wall in our field. That upon which Surender starting abusing us and Navdeep and Ritesh sons of Surender were presents their axe (kulhari) and Stick (danda). That when we started to going back then Ritesh and Navdeep stopped us in the field and Navdeep gave axe blow on my head and Ritesh and Surender started giving stick blows then thereafter my son Harsh and my wife tries to rescued me then they beat them also and in the



mean time Pramila wife of Surender came and she also gave brick blows to my wife and my son Harsh upon which we screamed maar diya maar diya. That thereafter they fled away from the spot after seeing coming my younger brother Yashvir's wife along with some persons to the spot. While going they threatened us to kill. That thereafter our family members arranged ambulance and admit us to CHC Matanhail and thereafter doctor sahib referred us to PGIMS, Rohtak and after getting treatment we came back to our home. That we came present and give application to you and you are requested to take legal action.”

4. Status report dated 05.04.2025 filed by State counsel today in the Court in CRM-M-54238-2024 is taken on record. Reply on behalf of the complainant also filed today in the Court is taken on record. Copies thereof have been supplied to counsel for the petitioner.
5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.
6. The State's counsel as well as counsel for the complainant opposes bail.
7. Counsel for the petitioner submits that altercation was due to possession dispute and as per the demarcation report (Ex.P-2), the petitioner is owner in possession of the property and it was the complainant party, who was aggressor and the petitioner had acted only in private defence.
8. On the other hand, counsel for the complainant submits that on the record the complainant is in possession. He further submits that massive injuries have been inflicted upon the complainant party and the petitioner has no right for anticipatory bail.
9. Counsel for the petitioner further submits that in case, this Court grants bail to the petitioner, he voluntarily undertakes that he will never enter the property of the complainant, which is in their possession, surrender fire arms, if any, and not repeat the offence. In case, he fails to do so, he would have no objection in case, State may file an application for cancellation of bail. He would not influence and tamper with the evidence and in case they do so, complainant have right to move an application for cancellation of the bail. He further contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.
10. It would be appropriate to refer to the following portions of the status report, which read as follows:



“20. That the present petitioner was actively involved in the present offence. She is named in the FIR and disclosure statement of co-accused Ritesh and Surender and has inflicted brick injury on the head of Mahabir which is grievous in nature hence custodial interrogation of the present petitioner is extremely important for thorough interrogation in the matter.”

REASONING:

11. At this stage, it is impossible to find out who is aggressor, no doubt injuries are serious moreover, petitioner is a woman but it is not a case for custodial interrogation.

12. 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.

13. Given the above, the penal provisions invoked the petitioner being first offender 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. 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.

14. 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 Ilaka 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.

15. 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)	

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

17. 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.

18. 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.

19. 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.

20. 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.

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 be at 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

08.04.2025

Jyoti-II

Whether speaking/reasoned: Yes

Whether reportable: No.