

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55297-2024
Reserved on: 13.01.2025
Pronounced on: 23.01.2025

Baljit Kaur ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ajay Pal Singh, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

GD No.	Dated	Police Station	Sections
24	10.09.2024	Amloh, District Fatehgarh Sahib	332-C, 115(2), 118, 190, 191(3), 109 BNS

IN

FIR No.	Dated	Police Station	Sections
114	30.08.2024	Amloh, District Fatehgarh Sahib	118, 115(2), 351(2), 3(5) of 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. In paragraph 10 of the bail petition, the accused declares that she has no criminal antecedents.
3. The facts and allegations are being taken from translated copy of FIR, which reads as follows:-

“Statement of Jasanpreet Singh Manga son of Hoshiar Singh resident of Village Bharpurgarh, Police Station Amloh aged about 20 years, 9041661849. Stated that I am resident of above mentioned address. I am shepherd. Gurtej Singh son of Dharam Singh resident of Bharpurgarh resides near my house who is having sawmill, the people use together at their sawmill. Yesterday on 29.08.2024, I was standing outside my house with my father and at about 6.30 PM Gurtej Singh, Harvir Singh son of Jaspal Singh,

Telu Ram son of Dharam and Sunny son of Kulwant Singh were standing in the street outside the sawmill, then Harpreet Singh son of Birbal Singh resident of Kapoorgarh came, who told Gurtej Singh don't put the electric latch, I have been sent by the Electricity Board to stop this. Then Gurtej Singh started argument with him, then me and my father Hoshiar Singh also went there. Then the father of Harpreet Singh named Birbal Singh and mother of Harpreet Singh named Paramjeet Kaur, who had gone to make prayer at Billu Peer Baba also reached there, where Gurtej Singh started abusing Harpreet Singh who was having kirpan in his hand and gave two blows of kirpan on the left shoulder of Harpreet Singh. When me and my father Hoshiar Singh tried to rescue him, then Telu Ram gave Danda blow on my back and also gave Danda blow on my left arm and Harvir Singh gave iron punch blow on the face of my father and Sunny gave Danda blows on his back.. My father lost two teeth. Then Harvir Singh, Sunny etc. gave Danda blows on the both legs of Harpreet Singh. When Paramjeet Kaur mother of Harpreet and father Birbal Singh tried to rescue, then all these persons gave injuries to both of them. Then Iqbal Singh brother of Harpreet came and tried to rescue, then Gurtej Singh gave Kirpan blows on his head and all of them raised voice "Marta Marta". Then several people gathered there, who got us rescued. Then Gurpreet Singh son of Mewa Singh resident of Bharpurgarh etc. admitted us in Civil Hospital, Amlah for treatment. From where me and my father got treatment. Harpreet Singh and his mother Paramjeet Kaur have been referred to CH Sector 32. At the time of rescuing, they had given injuries to Iqbal Singh. He is also admitted in C.H. Fatehgarh Sahib. That all these persons gave threatening us to kill. The reason of grudge is that Harpreet Singh had stopped Gurtej Singh from theft of electricity. Due to which, they beaten us in out of rage. Action be taken against them. The statement has been recorded, same is correct. Sd/- Jashanpreet Singh."

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. The State's counsel opposes bail.

6. An analysis of the arguments advanced by counsel for the petitioner as well as State counsel would lead to the outcome that there are cross cases. Perusal of cross case makes it difficult to prima facie come to an opinion that who was the aggressor and who is truthful.

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. 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.

10. 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.

11. 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)	

12. 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.

13. 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.

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. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, and their family members, as well as the 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 firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond 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 from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in 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. *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.*

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

23.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.