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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55132-2024
Date of Decision: 07.03.2025

Amit Chauhan @ Amit Chouhan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rakesh Nehra, Senior Advocate with
Ms. Bindu Tanwar, Advocate,
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. Yasdev Kaushik, Advocate,
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
566	18.10.2024	Saran, Distt. Faridkot	191(2), 191(3), 190, 115, 324(4) and 351(2) of BNS, 2023 (Later Sections 333 and 109 of BNS added)

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] (earlier Section 438 CrPC), seeking anticipatory bail.
2. In paragraph 28 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That the brief facts of this case which led to file the present FIR is that the complainant Mukesh Bansal with his partner Akshay Goyal had are running a Medical Store, known as Dosmed Pharma in partnership at Faridabad. On 16.10.2024 at about 5:00 PM, a two wheeler (Scooty) rider intentionally hit their motorcycle and fled from the spot. On the next day (i.e. on 17.10.2024) with the said grudge, petitioner/accused Amit Chauhan @ Amit Patwari along with his two friends, came in their car bearing registration number HR-51-CC-2472, at their medical store. The complainant, his partner Akshay and a friend named Amit, were present



there. They all gave unprovoked beatings to them and extended threat to kill under the influence of liquor. A complaint was lodged with regard to the incident dt. 17.10.2024 at the Police Station. It is submitted that within ten minutes of reporting the incident, 19-20 boys, armed with baseball bats, iron rods and sticks came together with common intention and attacked them (i.e. complainant, Akshay and a customer named Gaurav) with intention to kill. All the three persons suffered injuries on their head and other parts of their bodies. The petitioner and Rahul Godara were named specifically in the FIR. The petitioner had consumed liquor on the day of incident with his friends, at Rawat Chicken Corner. The complainant prayed for taking strict legal action against the culprits. On these allegations the present FIR was registered for the commission of offence punishable under section 191(2), 191(3), 190, 115, 324(4) and 351(2) of Bhartiya Nayaya Sahita.”

4. Mr. Rakesh Nehra, Senior Counsel for the petitioner on instructions from Ms. Bindu Tanwar, Advocate argues that even if the allegations are found to be correct that petitioner was one of three persons, who initially went to the spot but it had also come in the FIR that after that, he had left and later on, 19-20 persons had come. At that stage, it has also been mentioned that petitioner was not involved in the fight but he was standing at a distance place which means that he has disassociated himself from the second incident and in the first incident no harm was caused.

5. 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.

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

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

“6. That the petitioner is the main offender in the present case. He has been named as well in the FIR as Amit Patwari. Presence of the petitioner at the time of commission of the offence at the spot (i.e. at the shop of the complainant), was prima facie proved on the basis of CCTV Camera footage collected from the shop of the complainant. It is submitted that beside the petitioner, all the other 19 offenders, reached at the spot, armed with iron rods, baseball bats etc., were in muffled faces. The names and antecedents of those offenders could only be disclosed by the petitioner only. Because at his instance all the other accused had reached at the Medical Store of the complainant and attacked three persons present there.



The injuries inflicted to all the three persons were on their heads and serious in nature. One of the injured was discharged on 6th day after replacing two of his bones in his head. It is a case of attempt to kill and the petitioner is the main accused. It is submitted that the bail granted to him by the Ld. Area Magistrate was in moderate offences. The petitioner was admitted to bail on same day, the offences at that time were bailable in nature. However, now the offence punishable under section 109 of BNS is serious in nature.

7. That the petitioner had not joined the investigation. Now after adding of the serious offence punishable under section 307 of the IPC (109 of the BNS) recovery of the baseball bat and an iron rod had to be effected from the petitioner along with the names, antecedents and addresses of the persons involved with him in the commission of offence, who had attacked the complainant and other at his shop, at his instance. Therefore, the petitioner does not deserve the concession of bail.”

8. State counsel further submits that in case this Court is granting bail to the petitioner, then it should be with a clarification that the bail to the petitioner should not be a precedent to other 19-20 persons for the reason that the case set up by the petitioner is that he had disassociated himself.

REASONING:

9. The petitioner was not member of assembly/person who attacked the victim and he was standing at a distance, which reflects that he disassociated himself from them.

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. 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.

12. The investigation indicates that the petitioner's role is totally different from other accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other accused.



13. 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 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.

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. 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.

18. 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.

19. 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 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.

20. 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."

21. 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.

22. 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.

23. The concerned Judicial Magistrate/Trial Court is authorized to delete, modify, or relax any of the conditions mentioned above and is competent to do so following the law.

24. Any observation made hereinabove is neither an expression of opinion on the



case's merits nor shall the trial Court advert to these comments.

25. 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.

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

(ANOOP CHITKARA)
JUDGE

07.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.