

CRM-M-56872-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56872-2024
Reserved on: 15.01.2025
Pronounced on: 24.01.2025

Gurpreet Singh alias Deepa ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. R.S. Dadwal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0156	20.10.2024	Sadar Jagraon, Distt. Ludhiana Rural	115(2), 118(1), 126(2), 3(5), 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 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the FIR, which reads as follows:-

“Statement of Kuldeep Singh son of Najar Singh son of Inder Singh resident of Village Gurusar Kauke, Police Station Sadar Jagraon, District Ludhiana age approximately 44 years, Mobile no. 9876602820, that I am the resident of the above said address and is a agriculturist. Today, on dated 20.10.2024, Jagdish Singh @ Deesha son of Bawa Singh came to my home, who said that we have to manage the household articles, you come with me then I alongwith my cousins Ranjit Singh and Nirmaljit Singh sons of Gurdev Singh went to his home by sitting in his swift car. The car was being driven by Jagdish Singh @ Deesha when we reached in

CRM-M-56872-2024

the main chowk of our village then Jagdish Singh @ Deesha said to me that you bring cold-drink then I by alighting from the car was going towards shop for bringing the cold- drink then time would be approximately 7:15 AM then from the front side one car bearing no. PB 10 GT 3880 came in high speed and was stopped. From the driver side, Gurpreet Singh @Deepa son of Harbans Singh and on the other side Amanjot Singh @ Jyoti son of Shinderpal Singh armed with Kirpan, Gagandeep Singh son of Davinder Singh armed with baseball and Parminder Singh @ Pindu son of Gurdev Singh armed with baseball, all residents of Gurusar Kauke alighted immediately and surrounded me, by alighting Gurpreet Singh @Deepa raised Lalkara that my mother is Sarpanch and she is having very good links today, he should not be escaped and during this, Amanjot Singh @ Jyoti gave Kirpan blow towards my head then I forwarded my left arm for safety then the blow of Kirpan landed on the wrist of my left arm then Gagandeep Singh gave blow of baseball on my head with intention to kill, which landed on my head and I fell down then while I was lying down then Parminder Singh @ Pindi gave baseball blow on my right thigh and then Gagandeep Singh gave baseball blow on my left thigh and Gurpreet Singh @ Deepa gave feet blow on my back while I was lying down and Amanjot @ Jyoti, Gagandeep Singh and Parminder Singh @ Pindi also gave feet blow while I was lying down. I raised the voice maar ditta maar ditta then my cousins Nirmaljit Singh and Ranjit Singh and Jagdish Singh who were sitting in the car came by running and other people also gathered then Gurpreet Singh @ Deepa while extending me life threats fled away alongwith his companions and weapons by sitting in their car. I in injured condition was brought and admitted in civil hospital Jagraon. For treatment in car by my cousins Nirmaljit Singh, Ranjit Singh and Jagdish Singh @ Deesha, where I am under the treatment. Reason behind the grudge is that in the elections of Sarpanch, I and my family members supported Harpinder Kaur against Charanjit Kaur mother of Gurpreet Singh @Deepa and due to that Gurpreet Singh @ Deepa alongwith companions has given me beatings. This whole incident has been seen by Nirmaljit Singh, Ranjit Singh and Jagdish Singh @ Deesha. So, legal action may be taken against Gurpreet Singh @ Deepa, Amanjot Singh @ Jyoti, Gagandeep Singh and Parminder Singh @ Pindu. I am the complainant. Today I have got recorded my statement, heard, it is correct Sd/- Kuldeep Singh above said attested. SD/- Dharminder Singh ASI police station Sadar Jagraon dated 20.10.2024.

Police proceedings: Today I ASI was present at police post then MHC

CRM-M-56872-2024

police station Sadar Jagraon gave the information that Kuldeep Singh son of Najar Singh resident of Gurusar Kaunke is admitted in Civil Hospital Jagraon, due to receiving the injuries. Action may be taken after receiving the MLR. On that I ASI alongwith ASI Paramjit Singh 420, Lady constable Lovepreet Kaur 166 and constable Satguru Singh 314 reached at Civil Hospital Jagraon on Govt. Vehicle bearing no. PB 10 FV 1226 for taking the action from where MLR No. R.K/69 JJN 24 dated 20.10.2024 of injured Kuldeep Singh son of Najar Singh resident of Village Gurusar Kaunke was received from Dr. Sahib and also got the written opinion from the Dr.Sahib for taking the statement of injured. On that Dr. Sahib declared Kuldeep Singh fit for recording of the statement. On that I ASI instructed to the constable Satguru Singh 314 that the videography be recorded of the proceeding on my E.Sakshia App on my ID. Who was handed over the mobile after opening the ID of Sakshia App and I ASI recorded the above said statement of injured statement as per version and read over to him word to word, who put his signatures in English under the statement after hearing and deeming to be correct his statement. I ASI attested the same. In the above said numbered MLR, Dr. Sahib has mentioned total 4 injuries received by the injured. From them injury no. 1 is sharp and injuries no. 2, 3, 4 are blunt. Dr. Sahib has kept the injuries no. 1, 3, 4 under X Ray and injury no. 2 has kept for NCCT. On the basis of the statement and MLR, the offences under sections 110, 115 (2), 118 (1), 126 (2), 3 (5) BNS are made out.”

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 and refers to the reply.

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

“11. That the reply to the headings as passed in the above mentioned orders of this Hon'ble Court is as under:-

A. That the role of the petitioner is that he is the main accused at whose instigation other accused caused injuries to the complainant due to the motive as mentioned above regarding election of Sarpanch. The petitioner also gave kick blows on the back of the complainant.

B. That the statements of the complainant Kuldeep Singh, Eye witnesses Nirmaljit Singh and Ranjit Singh and Jagdish Singh are in evidence against the petitioner.

C. That in case this Hon'ble Court dismisses this petition of the petitioner then the police will arrest the petitioner in this case and custody of the petitioner is required to the I.O.”

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.

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

CRM-M-56872-2024

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

CRM-M-56872-2024

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 may 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

24.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.