

CRM-M-58855-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58855-2024
Reserved on: 13.01.2025
Pronounced on: 30.01.2025

Sarabjeet Singh Rathor alias Shankar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nippun Sharma, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Sharwan Sehgal, Advocate and
Ms. Mehak Sharma, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
98	02.11.2024	Punjab Agricultural University (PAU) Ludhiana	333, 115(2), 126(2), 324(2), 351(2), 190, 191(3) 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 6 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That in compliance to the above noted order of this Hon'ble Court, it is humbly submitted that on 02.11.2024 complainant- Deepak Arora made a statement with the police levelling allegations that on 01.11.2024 at about 3:00 p.m, he was coming to his house on car No.PB-10HK-9950 but when he reached in front of his house, then two unidentified persons came from behind on a bullet motorcycle and they asked the complainant to move the car aside and the complainant was moving his car aside from

CRM-M-58855-2024

traffic jam but during this, the said persons while arguing with complainant went from there in anger and the complainant came to his shop.

However after some time, the abovesaid motorcyclist along with 7-8 youngsters, armed with rods, daatars, swords and baseball bats, came there and they caused breakage to Innova Car No. PB-10HK- 9950 and Swift Car No. PB-10FG-7151 which were parked in house No.1448 of the complainant. The said persons also attacked one Neeraj with rods who had come to Meet the tenant in the said house. On this, the sister-in-law of the complainant namely Shweta came out of the house and she was attacked with swords by one person namely Raja Giri out of the above persons. The entire occurrence was recorded in the cameras installed in the house of the complainant and on checking the same, it was revealed that the said persons were Shankar (present petitioner), JoJo Sahota, Kannu, raja Giri and five/six other unidentified persons.”

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:

“ROLE OF THE PETITIONER and That thus there are direct and specific allegations that after forming unlawful assembly, the petitioner and his co-accused trespassed into the complainant's house and caused injuries to the above noted Shweta and Neeraj Kumar and also caused breakage to the cars which were parked in the complainant's house. Therefore considering the nature of allegations, the petitioner is not entitled for the concession of anticipatory bail which is an extra ordinary relief and the same is granted only in exceptional cases. However, as per police record, no other FIR has been registered against the petitioner.

6. That further investigation is still pending and in order to recover the weapon of offense used by the petitioner in crime, custodial interrogation of the petitioner is very much required by the police. Moreover, in case of State represented by the C.B.I. V/S. Anil Sharma, 1997 (4) R.C.R. (Criminal), 268, the Hon'ble Apex Court has observed that custodial interrogation is qualitatively more elicitation oriented than questing a suspect who is on anticipatory bail. There are total five accused in this case out of which one accused namely Kannu has been arrested but four

CRM-M-58855-2024

accused including the petitioner are absconding and they are still at large.”

7. The petitioner is not explicitly referred as a person who had caused injuries or broke the car. Even in the CCTV footage it is not inferable. Although the petitioner’s conduct is deplorable, highly condemnable but this Court wants to give him one opportunity to course correct and to mend his ways and live like a descent and law abiding citizen.

8. 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.

9. 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.

10. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

11. 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. 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.

13. 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)	

14. 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,

CRM-M-58855-2024

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.

15. 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.

16. 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.

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.

CRM-M-58855-2024

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
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Whether speaking/reasoned: Yes
Whether reportable: No.