

CRM-M-61170-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61170-2024
Reserved on: 15.02.2025
Pronounced on: 28.02.2025

Prem Singh @ Laddi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.K. Singla, Advocate
Ms. Shivani Singla, Advocate and
Mr. Harjinder Singh Ghargna, Advocate
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

Mr. Amandeep Singh, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
108	09.06.2024	Bhikhi, District Mansa	307, 341, 323, 148, 149, 120-B & 427 IPC (Act No.45 of 1860) (Later on offence u/Ss 326, 325 & 324 IPC were added vide DDR No.22 dated 10.08.2024 and offence u/s 120-B IPC was deleted vide DDR No.15 dated 01.09.2024)

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations and role of the petitioner, are being taken from the reply filed by the State, which reads as follows:

“That in compliance with the order dated 11.12.2024, passed by Hon'ble Court, it is submitted that from perusal of the police record, it reveals that on 08.06.2024, on telephonic information was received at Police Station

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Bhikhi from Police Station City-I Mansa, regarding admission of injured persons namely Jaswant Singh son of Gurpiyar Singh and Maninder Singh son of Jagseer Singh residents of village Bir-Khurd, District Mansa, in Civil Hospital Mansa, after sustaining injuries in a fight. On which, ASI Gurmail Singh No.683/Mansa then posted at Police Station Bhikhi along with police party after collecting the ruqa from Police Station City-I Mansa, District Mansa, reached at Civil Hospital Mansa and obtained written fitness opinion in respect of the injured persons but the concerned doctor had disclosed that injured Jaswant Singh was referred to higher centre, whereas injured Maninder Singh was declared as unfit. On return to the police station entry in this respect was entered in the police record.

(1) Then on 09.06.2024, another medical ruqa No.75213, dated 08.06.2024, was received at Police Station Bhikhi from police Post DMC Hospital Ludhiana, regarding admission of injured Jaswant Singh. On which, IO/ASI Gurmail Singh along with police party after collecting ruqa from the Police Post DMC Ludhiana, reached at DMC Ludhiana and obtained written fitness opinion in respect of the injured person from the concerned doctor but the concerned doctor had declared the injured Jaswant Singh as unfit, as the patient was under surgery/operation at that time.

Role of the petitioner & evidence against the petitioner

(ii) In the meantime brother of injured Jaswant Singh namel Jagsir Singh son of Gurpiyar Singh along with Baljinder Singh son of Jagjeet Singh residents of Bir Khurd, met the above mentioned police party, where Jagsir Singh had recorded his statement with the 10. In the statement complainant Jagsir Singh had mentioned that, "Stated that I am a resident of above mentioned address and an agriculturist. We are two brothers and five sisters. All are married. Yesterday i.e. on 08.06.2024, at about 1.30 PM, I was irrigating my paddy crops in Barmi fields with a motor. My younger brother Jaswant Singh along with Maninder Singh son of Jagsir Singh of our village, were returning back to the village from Bhikhi on my motorcycle bearing registration No.PB-31R-4911, make Bullet after finishing his domestic work. When my brother Jaswant Singh reached in front of my fields, then one white coloured Bolero in which 8-9 persons were sitting came from the side of Bhikhi and within my view hit the motorcycle of my brother from back side with great force. Both the persons fell down from the motorcycle. Maninder Singh was driving the motorcycle and my brother was pillion rider. Suddenly 8-9 persons came out from the Bolero armed with gandasi, swords, rod and wooden sticks. They chased my brother Jaswant Singh and Maninder Singh in order to

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cause injuries. Maninder Singh ran towards the right side of road and my brother Jaswant Singh ran towards the motor. 3-4 persons were chasing Maninder Singh. They caused injuries to Maninder Singh. 4-5 persons also chased my brother. My brother Jaswant Singh raised raula mar-dita', 'mar-dita'. They encircled my brother Jaswant Singh, stopped Bolero and blocked his way. Out of them Gora Singh @ Kirach son of Bhola Singh, resident of Bir Khurd armed with Gandasa, Gursewak Singh son of Nachhattar Singh, resident of Bir Khurd, armed with sword, Kaka Singh Kheriwala, resident of Dhaipi armed with Gandasa, Jugnu Singh son of Swaraz Singh, Petitioner Prem Singh @ Laddi son of Bittu @ Hardeep Singh, residents of Bir Khurd armed with Wooden sticks and Gurpreet Singh @ Thori son of Gurtej Singh, resident of Bhikhi armed with iron rod in-conspiracy with each other and with the intention to kill my brother Jaswant Singh caused injuries on his head, forehead, backside of head, legs and arms with their respective weapons. I also raised raula mar dita' mar-dita'. The above mentioned accused along with their respective weapons boarded Bolero car and went away from the spot towards Bhikhi side. Thereafter, I sent message to my relatives in the village, brought a vehicle at the spot and got admitted my brother Jaswant Singh and Maninder Singh in Government/Civil Hospital, Mansa. Due to serious injuries my brother Jaswant Singh was referred. We arranged the ambulance and got my brother Jaswant Singh admitted in DMC, Ludhiana. My brother is unconscious. Today he is being operated. They have also damaged our bullet motorcycle. The reason of grudge is that about 7-8 years ago, a fight had taken place between my brother Jaswant Singh and Gursewak Singh son of Nachhattar Singh etc. in the ground of village and due to this reason above mentioned accused Gora Singh @ Kirach, Kaka Singh Kheriwala, Jugnu Singh, Petitioner Prem Singh @ Laddi, Gursewak Singh, Gurpreet Singh @ Thori and 3-4 unknown persons have caused to my brother Jaswant Singh and Maninder Singh. Legal action be taken against them, FIR be registered and justice be given to us."

(iii) Then as per the statement of the complainant Jagsir Singh, present case FIR No.108, Dated 09.06.2024, Under Section 307/341/323/148/149/120-B/427 IPC, was registered against the accused persons namely Gora Singh @ Kirch son of Bhola Singh, Gursewak Singh son of Nachhattar Singh, Jugnu Singh son of Sawraj Singh, Petitioner Prem Singh @ Laddi son of Hardeep Singh @ Bittu Singh, all residents of village Bir Khurd, Gurpreet Singh @ Thori son of Gurtej Singh resident of Bhikhi, Kaka Singh Khediwala resident of Hamirgarh Dhaipi and 3-4

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unknown persons, at Police Station Bhikhi, District Mansa.”

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 role of the petitioner mentioned in the reply, as reproduced above.

REASONING:

6. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

7. Per paragraph 12(v) of the bail petition, the petitioner has been in custody since 19.06.2024. Per the custody certificate dated 14.02.2025, the petitioner’s total custody in this FIR is 07 months & 23 days.

8. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

9. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

10. 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.

11. 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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. 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)	

13. 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,

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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.

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. 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

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for deletion or dilution of any bail conditions, the trial court is empowered to do so.

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 have the liberty to cancel this bail.**

19. The concerned trial court is authorized to delete, modify, or relax any of the above conditions and shall be competent to do so in accordance with the law.

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.

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

28.02.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.