

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61012-2024
Reserved on: 07.02.2025
Pronounced on: 15.02.2025

Rakesh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Khushwant Saharan, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
235	16.08.2024	Rohtak Sadar, District Rohtak	191(3), 190, 115(2), 333, 118(1), 110, 351(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. Per paragraph 11 of the reply, the accused has the following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	295	06.08.2022	307, 506 IPC and 25 of Arms Act	Sadar Rohtak

3. Vide order dated 16.12.2024, interim bail was granted to the petitioner which is continuing till date.

4. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That the facts of the case are that on 16/8/2024 the police received information from Civil Hospital, Rohtak about the admission of Sonu S/o Dharambir, Aalim S/o Amir, Ashok S/o Balwan, Shokin S/o Balwan in hospital after receiving injuries in a quarrel. Thereafter the I.O. approached to hospital and obtained the

MLRS of injured. As per MLR No.LJ/44/2024 dated 15/8/2024 pertaining to injured Sonu in which total 5 injuries i.e. injury No.1 & 2 as KUO Blunt and injury No.3 to 5 were mentioned as Simple Blunt. In MLR No.LJ/42/2024 dated 15/8/2024 pertaining to Shokeen total 3 injuries were mentioned. Out of which injury No.1 is mentioned as KUO Blunt and injury No.2 & 3 are mentioned as Simple Blunt. As per MLR No.LJ/43/2024 dated 15/8/2024 pertaining to injured Ashok 2 injuries mentioned i.e. injury No.1 as KUO Blunt and injury No.2 as Simple Blunt are mentioned. As per MLR NO.LJ/45/2024 dated 15/8/2024 pertaining to injured Alim two injuries as simple sharp are mentioned. The copies of MLRS are attached herewith as Annexure-R1 to R4.

3. That the injured/complainant Sonu s/o Dharambir R/o Village-Titoli, Distt.-Rohtak moved complaint in which he disclosed that he is doing labour work and on 15/8/2024 at about 8:30 P.M. he alongwith his cousin Ashok S/o Balwan, Shokeen S/o Balwan and uncle Alim S/o Amir Singh were smoking Hukka in the house of Alim and were talking. In the meantime Pardeep, Sunny sons of Rohtash and Rakesh @ Rocky S/o Virender and Ankit S/o Satya Parkash R/o Village-Titoli Distt.-Rohtak and one Pardeep & others reached there. Pardeep was armed with a Farsa, Sunny was armed with axe and one unknown person was armed with wooden stick and they started abusing the complainant party and attacked on them. Pardeep with his farsa, Sunny with his axe and unknown person with wooden stick attacked on the complainant, his uncle Alim and cousin Ashok and Shokeen with their weapons and thereafter fled away from the spot after extending threats to kill them. On the basis of said complaint a case vide FIR No.235 dated 16/8/2024 U/s 191(3), 190, 115 (2), 118(1) 110, 351(3) of B.N.S. was registered at Police Station Sadar, Rohtak.”

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. He prays for bail on the grounds of parity with co-accused. He further submits that petitioner was not named initially by name and no specific injury was attributed to him.

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

REASONING:

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, case of petitioner on parity with co-accused 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.

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. 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 Ilaka 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.

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. 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.

15. 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.

16. 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.

17. 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.

18. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

19. 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.

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

(ANOOP CHITKARA)
JUDGE

15.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.