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CRM-M-61575-2024
Date of Decision: 20.03.2025

Versus

...Respondent

Ms. Mamta Saini, Advocate for
Mr. Ravinder Malik (Ravi), Advocate for the complainant.

FIR No.	Dated	Police Station	Sections
356	03.11.2024	Bilaspur, District Yamuna Nagar	109(1), 115, 118(1), 190, 191(3), 351(2) 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. Vide order dated 09.12.2024 the petitioner was granted interim bail, which continues till date.
3. The facts and allegations are being taken from the relevant portion of translated copy of FIR (Annexure P-1), which reads as follows:

“Statement Harpal Singh, age 52 years, S/o Jai Singh, village Changanauli. Police Station Bilaspur- It is stated that I am a resident of the above address and I am a farmer, my land is adjacent to the farm of Manpreet S/o Nachhatar Singh. On dated 01.11.2024 my servant Sukhdev Singh told me that Manpreet Singh abused me and asked why did you leave water in my field, which my servant Sukhdev Singh told me, on which I asked Manpreet about abusing my servant at around 12.30 pm, who also abused me, there my uncle's son Jasbir Singh S/o Balbir Singh got us released, who threatened to take care of me and went away and today at around 11.30 am, I and my uncle's son Jasbir Singh were going to our fields on my motorcycle Glamour, when we reached near Harijan Majri. Manpreet, Devendra S/o Dilbag Singh and Gurjinder Singh son of Harpal Singh and his brother followed us on a motorcycle and we both entered the

Harijan colony out of fear, then we went to our fields I went to the place where the shed is built, there I and my nephew Krishna S/o Rameshwar and Rajesh S/o Baljeet and my son Vikrant were sitting. At about 12.30 PM, Manpreet son of Nachhattar Singh, Lovepreet son of Gurmit Singh, Dilbagh son of Deep Singh, Jagmeet son of Mahender, Gurvinder Singh son of Kulsharan Singh, Paramjit son of Mahender Singh, Devender Singh alias Golu son of Dilbagh Singh, Komaljit Singh son of Sarmaur Jang Singh. Gurjinder son of Harpal Singh and Manpreet's maternal uncle Jasbir Singh son of Gurbakhsh Singh, resident of Makhaur and 2/4 other persons together had opened an assault on us. Manpreet Singh inflicted rod having in his hand on my back and Gurjinder Singh inflicted Gandasi having in his hand on my head and Gurvinder Singh inflicted rod having in his hand on my both legs and Paramjit inflicted the same on my knee and my nephew Krishan Kumar was given Bhala blow by Jagmit Singh having in his hand on the right hand of Krishan Kumar and Lovepreet inflicted Danda having in his hand on his head and Dilbagh inflicted Danda having in his hand on my right hand and Jasbir Singh inflicted rod blow and my son Vikrant was beaten by Komaljit and Lovepreet with Dandas, due to which my son suffered injury on his right arm and Rajesh aged 42 years son of Baljit Singh was given injuries by Devender alias Golu, Manpreet and Paramjit, wherein Devender inflicted injuries with this Danda on left arm, Manpreet on right shoulder and Paramjit on the mouth. The other persons also had caused us beating. There we raised noise of Bachao-Bachao, then many people of the village gathered at the spot. All the aforesaid people alongwith their respective weapons had fled away from the spot. All the aforesaid people together, after entering into my field, have opened a killing assault, against whom a strictest legal action may be taken. I have got my statement recorded, which has been heard and is correct.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. The State's counsel opposes bail and handed over his instructions today in the Court. As per which, Section 109(1) BNS has been removed. On the other hand, counsel for the complainant submits that investigator deleted 109(1) BNS without proper investigation besides this offence 118(1) BNS is also involved in the FIR, which made the petitioner dis-entitled for bail.

REASONING:

6. Since the offence under Section 109 (1) BNS has already been deleted, therefore, no ground is made out to deny bail of petitioner as attribution to the petitioner is not for any grievous injury and injury attributed to the petitioner is simple in nature.

7. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although 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 the same for the bail stage.

8. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

CONDITIONS:

9. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. 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.

10. Given the background of allegations against the petitioner, it becomes paramount to protect the complainant, witnesses, and 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 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, 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.

11. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the victim's property, workplace, and residence 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 Bhat v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

12. 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."

13. 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.

14. This bail is conditional, and the foundational condition is that if 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.

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

16. **Petition allowed** in terms mentioned above. Interim order dated 09.12.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.03.2025/*Jyoti-II*

Whether speaking/reasoned: Yes

Whether reportable: No.