

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61878-2024
Reserved on: 10.01.2025
Pronounced on: 23.01.2025

Deepak Rawat ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Deepender Pratap Singh, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

Mr. Paramvir Singh Doon, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
873	15.11.2024	Sector 58, District Faridabad	191(3), 115(2), 190, 324(4), 109(1), 351(3), 287 BNS and 25-54-59 of Arms Act

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 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:-

“2. That brief facts of the case are that the complainant Deepak Singh son of Shri Virender Singh, moved written complaint to the police alleging therein that on 14.11.2024 at about 11:30 P.M., he was present at the Hotel of his uncle. Karan, co- villager, was returning to his house after his duty hours. He stopped and then left for his house. While proceedings to his house, driver of a black Scorpio vehicle tried to hit the same against him. He somehow saved himself and telephonically informed him (complainant) that a Scorpio vehicle was proceeding towards complainant side and had tried to run him over. One Sanjay was also present with complainant. He and Sanjay tried to stop that vehicle and threw a

small stone towards at Scorpio vehicle. Resultantly, that vehicle stopped. Petitioner Deepak Rawat son of Gopi Chand alighted from the same and started hurling filthy abuses. He indulged in scuffle with Pushpender. In the meantime, Karan also reached there. Petitioner Deepak Rawat left the spot asking the complainant party to stop there for five minutes, intimidating them with dire consequences. Thereafter, petitioner/accused Deepak Rawat, Pawan (co-accused arrested), Chhotu and brother-in-law (Jija of Deepak) came there in black Scorpio alongwith 3- 4 others and started firing shots. Complainant and other ran to save their lives. Karan fired in air to save himself and then fled away. The assailants damaged complainant's vehicle No. HR- 87H-9328 with brick, stone and rod."

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. Counsel for the petitioner referred to the bail petition and submits that the petitioner has been falsely implicated because of ongoing political rivalry regarding election of Sarpanch in the village. He has referred to paras no.5 and 6 of the bail petition which reads as under:-

"5. That the true facts are that the complainant and the petitioner belongs to the same village and due to their previously ongoing political rivalry regarding the elections of Sarpanch scuffle is already going between them. On the night of incidence i.e 14.11.2024 the present petitioner was coming towards his village in his Scorpio car bearing DL registration number and after identifying the number, the complainant intentionally threw a stone towards the petitioner's car putting his life in danger. Immediately after that the petitioner stopped the car and came out and asks the complainant party the reason for throwing stone on his car. Then the complainant and the person accompanying him started a heating argument by using filthy language with dire consequences and also they open fired upon the petitioner, from which fortunately, the petitioner was able to save himself and escaped from the spot.

6. That it is relevant to mention here that there is a delay of one day in registration of FIR as the alleged offence was committed on 14.11.2024 at about 11:30 pm, whereas the complainant got the FIR registered in connivance with the police officials on 15.11.2024 at about 06:10 p.m., after having thoughts, discussions and legal opinions."

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

7. It would be appropriate to refer to the following portions of the status report, which read as follows:-

“11. That during investigation, it has been revealed that the petitioner alongwith other co-accused had reached at the spot and the assailants had fired at the complainant party. Scorpio was driven by complainant Deepak son of Virender Singh. The empty cartridge was recovered from the spot.

12. That as per allegations of FIR and investigation carried out so far, the role of the petitioner/accused is that, he is specifically named as accused in the present case. The petitioner/accused has committed serious and heinous offence. He was actively participated in commission of offence. Petitioner/accused was driving the Scorpio and he firstly tried to run over Karan. Thereafter, when petitioner and others were stopped by complainant party, petitioner/accused intimidated them and then brought his co-accused namely, Chhotu son of Vinod, Kuldeep son of Dharampal, Deepak son of Jagdish, Vikash Rathi son of Mahabir and other persons and thereafter, indiscriminate firing was done. Firearms were used by assailants from the side of petitioner, who were brought at the asking of the petitioner. An empty cartridge was also lifted from the spot. Karan from complainant party saved itself by a firing shot in the air. The empty cartridges were also produced by the complainant party to the police to substantiate its version. The place of occurrence is surrounded with open area; hence, empty cartridges could not be recovered. In view of the overt act attributed to the petitioner, he is not entitled for anticipatory bail. Hence, custodial interrogation of the petitioner/accused is required by the police for recovery of weapon used in commission of offence and he is required to be thoroughly interrogated.”

8. Even as per prosecution case, the petitioner was driving the scorpio vehicle and had not fired. Further the stand of the petitioner that he is a first offender is not disputed. Petitioner's plea as mentioned in paras no.5 and 6 above cannot be burst aside at this stage.

9. 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.

10. 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.

11. 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.

12. 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

13. 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.

14. 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)	

15. 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.

16. 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.

17. 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.

18. 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.

19. 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."

20. 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.

21. *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 be at liberty to cancel this bail.

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

23. 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.

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

(ANOOP CHITKARA)
JUDGE

23.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.