

230 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62549-2024
Date of Decision:05.03.2025

Raman Kumar ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aditya Anand, Advocate
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
226	19.09.2024	Tanda, Distt. Hoshiarpur	118(1), 351(2), 191(3) and 190 BNS, 2023 (erstwhile Sections 324, 506, 148, 149 IPC)

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 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the FIR annexed with the bail petition as Annexure P-1, which reads as follows:

“Stated that I am the resident of above stated address. On 30.09.2024, at about 04:00 P.M, I received a phone call from Raman Kumar who told me to come to Grain Market, Chaulag Thereafter, I along with my brother Lakhwinder Singh, Sukhdyal Singh son of Najar Singh, Sabi son of Satnam Singh resident of Village-Bahadurpur (Thakari) and Bona son of Ravel Singh resident of Village-Nathupur. P.S-Tanda, District-Hoshiarpur proceeded towards the Grain Market, Chaulag. When we reached there. the following persons were already at the spot- Kamal son of Davinder Singh resident of Village-Data, Seetu, Ghuda resident of Village-Kharla, Raman and Kamal residents of Village-Ghodewaha, P.S-Tanda, District-Hoshiarpur along with 9-10 unknown persons. Ghuda armed with Sword



(Khanda) gave a blow which landed on the right side of my head. Raman (Ghodewaha) armed with Sword (Khanda) attacked my brother Lakhwinder Singh and the blow landed on the elbow of his right arm. Then my brother was attacked again by Seetu armed with Sword (Khanda) and the blow landed on the backside of his head. My brother Lakhwinder Singh was attacked third time by Seetu with his Sword (Khanda) and the blow landed on the backside of the neck. Kamal son of Davinder Singh resident of Village Ghodewaha pelted stones at us and threatened to kill us. The 10 unknown persons who were present at the spot gave lalkaras and stated that "Today we will not let these two brothers go alive". Then suddenly people from our village got to know about what was happening and they came to the spot due to this the aforesaid persons fled the spot along with their respective weapons. My uncle Harjinder Singh son of Hamdad Gill resident of Village-Raipur arranged conveyance for us and got us admitted at Civil Hospital, Tanda where we were medically examined and MLR was prepared. Thereafter, we were referred to Civil Hospital, Hoshiarpur where we received treatment for two days. Then we were referred to Amritsar by the Doctor, but I was the only one who received the treatment. On 12.09.2024, I was discharged from the hospital and returned to my home. Talks of compromise were going on regarding the aforesaid fight, however, the said talks have failed. Today, the police have come to my house at Raipur where I have given my statement. Heard. It is correct. It is humbly prayed that strict action may kindly be taken against the above said persons."

4. Counsel for the petitioner submits that the role attributed to the petitioner is that he caused an injury on the right arm of victim's brother. He undertakes voluntarily to surrender fire arm, if any, within 07 days and further undertakes not to enter the premises, property and work place of the victims during pendency of the trial. He further submits that pre-trial incarceration would cause an irreversible injustice to the petitioner and his 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 PETITIONER

8. That it is submitted that the petitioner was member of an unlawful assembly which was armed with deadly weapon like khandas and the petitioner- Raman Kumar gave khanda blow, which hit on the right arm of Lakhwinder Singh (brother of complainant). The injury offence under



section 118(2) was added to the present case. The attributed to the co-accused Ghuda declared grievous in nature and weapon of offence is yet to be recovered and for this purpose, the custodial interrogation of the petitioner is required in this case. Therefore, the present petition is liable to be dismissed.”

REASONING:

7. Role attributed to the petitioner is that petitioner gave khanda blow, which hit on the right arm of Lakhwinder Singh and injury is not grievous. Petitioner is not main accused, grievous injury is attributed to co-accused Ghuda.

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. Petitioner was granted interim bail on 13.12.2024 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.

10. 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.

11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case given the role attributed to the petitioner and for the reasons mentioned above, the petitioner makes a case for bail.

CONDITIONS:

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, 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 (CrI.) 458); and Aparna Bhatt v. The State of Madhya Pradesh, 2021:INSC:192, 2021 SCC Online SC 230.

17. Given the background of allegations against the petitioner, it becomes paramount to protect the victim, 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 firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a 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 of release from prison and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew



and reclaim them in case of acquittal in this case, provided otherwise permissible under 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.

18. 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."

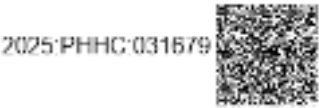
19. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been 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.

20. 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.

21. **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.**

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. Interim order dated 13.12.2024 is made absolute. All pending applications, if any, stand disposed of.

05.03.2025
Jyoti-II

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	No.