

CRM-M-63926-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63926-2024
Reserved on: 13.02.2025
Pronounced on: 28.02.2025

Joginder Kaur @ Chhindo and others ...Petitioners

Versus

State of Punjab ...Respondent
CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rakesh Kumar Kachura, Advocate for the petitioners.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
161	04.11.2024	City Mamdot, District Ferozepur	132, 221, 126(2), 191(3), 190, 304 of BNS 2023

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 14 of the bail petition, the accused declares that they have no criminal antecedents, except Gurpreet Singh @ Gora, who is involved in two other FIRs which are under Excise Act and he is on bail in that cases.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the brief facts of the case are that PHG Gurmej Singh, who was serving on general duty at PS Mamdot. He alongwith ASI Darshan Lal, ASI Sukhchain Singh, PHG Juj Singh and ASI Om Parkash on government vehicle had gone to the house of Des Raj son of Makhan Singh at Village Kakkar on 04.11.2024 for investigation of case under section 379-B read with section 34 of IPC arising out of FIR No.07 dated 05.02.2021, PS Mamdot. Des Raj was apprehended. In the meantime, Baldev Singh raised lalkara that today the police officials of PS Mamdot are to be taught a lesson for arresting Des Raj and they be caught. Kailash Rani caught complainant Gurmej Singh from neck and had broken the button of his shirt of uniform and had also snapped the shoulder of uniform. In the meantime, Harmesh Singh had beaten him and had snatched his mobile phone. Joginder Kaur (petitioner no.1), Bindo (petitioner no.4), Gori

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(petitioner no.2)and Guddo (petitioner no.3) also manhandled him and gave him beatings and they tried to rescue Des Raj from the police party and had manhandled the other members of the police party.”

4. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

5. The State’s counsel strenuously opposes the bail and refers to the following portion of the reply:-

“ROLE OF PETITIONER

5. That so far as the role of the petitioners is concerned, they manhandled Gurmej Singh complainant and gave him beatings

EVIDENCE AGAINST THE PETITIONER

6. That so far as the evidence against the petitioners is concerned, they were nominated by names in the FIR on the statement of PHG Gurmej Singh, complainant of FIR and they were very much present at the spot as per the evidence collected by the police.

NEED FOR POLICE CUSTODY:

7. That the petitioners have attacked the official who was on law and order duty and had gone to arrest the accused with the police party on the instigation of co-accused. Further such type of incidents are increasing in the State of Punjab, whereby the officials entrusted with law and order duties are becoming hesitant in performing their official duties. Now in these days, a tendency is growing to challenge the State machinery and to prevent the State machinery from taking lawful action and in case, petitioners are released on anticipatory bail, it would have demoralizing effect on the authorities and law enforcing agencies and would send a wrong signal in the society and would embolden such like elements. Thus the arrest of the petitioners is most needed in this case to prevent such type of activities.”

REASONING:

6. Although the allegations are against the petitioners for attacking the police officers and undoubtedly the police officials who had come for police investigation, should not have been attacked but the law would take its own course, subject to proof of evidence during the trial if the stage arises. This Court is concerned prima facie with the justification, for custodial interrogation and need for pre-trial incarceration. In the given

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facts and nature of injuries, this Court is of the considered opinion it is neither a case for custodial interrogation nor pre-trial incarceration.

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 and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

9. 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.

CONDITIONS:

10. Given above, provided the petitioners are not required in any other case, the petitioners 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.

11. While furnishing a personal bond, the petitioners 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 petitioners' complying with the following terms. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners 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.

13. The petitioners are 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 petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner

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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 petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. 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 petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. It is clarified that if the petitioners violate 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 petitioners move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

16. **This bail is conditional, and the foundational condition is that if the petitioners 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.**

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 Petitioners 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

28.02.2025

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Whether speaking/reasoned: Yes

Whether reportable: No.