

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-65523-2024
Reserved on: 03.04.2025
Pronounced on: 22.04.2025

Lovepreet Singh and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Ms. Navreet Kaur Barnala, AAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
74	16.05.2023	Guruharsahai, District Ferozepur	365/458/427/506/148/149 IPC

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. Per paragraph 15 of the bail application, the accused/petitioners have the following criminal antecedents:

Sr. No	FIR No.	Date	Offenses	Police Station
1	189	29.09.2024	420/465/467/468/471/120-B IPC	Guruharsahai, District Ferozepur

3. The facts and allegations are being taken from the translated version of FIR, Annexure P-1, which reads as follows:

“Statement of Nishan Singh son of Kashmir Singh son of Gurbachan Singh am resident of Guddar Panj Garai now resident of Village Vasal Mohan Ke (Golu Ka). Near Satsang House Beas, aged about 23 years, Mobile No. 62398-97033. Stated that I am resident of above mentioned address and doing agriculture work. Our native Village is Guddar Panj Garai and we are living in Village Golu Ka Mod since last 1-1/2 years after constructing our house. My father is serving in Indo Tibetan Border Force and presently is posted at Leh Ladakh.

Yesterday night at about 2.45 AM. I and my family were sleeping in our house and then noise of breaking the gate comes from the down side of our house and we were on the roof. After opening the main gate of our house, we heard noise of some persons on the stairs gate and they were trying to open the stairs gate but the gate was not open and on the same time, they started hitting Spade (Kapa) and Swords on the gate and entered inside after breaking the gate. We entered into the room due to fear after hearing the abusive and threatening language of these persons and we locked the gate from inside. Then these persons broke the glass installed on the upper side of gate of our room and throw chillies inside which were crushed (in powder form). Due to fear we did not open the gate then all of them pushed another gate and after breaking the lock they entered inside. Out of them Mandeep Singh son of Baldev Singh having Pistol, Lovepreet Singh son of Baldev Singh having Double Barrelled Gun, Budh Singh son of Arjan Singh having 12 bore rifle, Judge Singh son of Surinder Singh having pistol, Baldev Singh son of Poja Singh having pistol, Karnail Singh son of Budh Singh having pistol, Karamjit Kaur wife Baldev Singh having Spade (Kapa), Balwinder Singh son of Falak Singh having Double Barrelled Gun residents of Chak Chaga Rai Hithad (Kotho), Vanshdeep son of Rattan Singh resident of Jhugge Aatu Wale (Khahde) in his white coloured Indica Vista Car and son of Kalra Karyana Store Golu Ka having Spade (Kapa) and along with them 14-15 more unknown persons were there who were also having Spade (Kapa), Swords and other weapons came and started giving beatings to our family members. Mandeep Singh point his pistol upon my head and said now stop me to took Neelam and until he made a fire shot then one of his friend said from behind not to shot fire. Then my sister Neelam Rani and my mother Parminder Kaur started raising noise of Bachao Bacao then all of them caught hold my sister Neelam Rani forcibly with legs and arms and after dragging her took her to downstairs and whenever they did not took my sister out from the outside gate till then the other persons stopped us and then all of them after giving filthy abuses and after issuing life threats ran away from the spot after making my sister to sit inside the Car. All of them along with their respective weapons broke the glasses and doors of our house and cause huge loss to us. While breaking the glass, a piece of glass hit on the nose of my 06 months daughter. Appropriate legal action may kindly be taken against all these accused persons. Statement recorded, heard and same is correct. Sd/ Nishan Singh above said Statement certified by Sd/ Parminder Kaur wife of Kashmir Singh. Verified by Sd/ Mohinder Singh ASI PS Guru Harsahai, Date: 16.05.2023..."

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

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

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

“Role of petitioner no.1 Lovepreet Singh

6. That so far as the role of the petitioner no.1 is concerned, he was armed with double barrel gun and he along with other co-accused entered in the house of the complainant and caused injuries to them.

Role of petitioner no.2 Baldev Singh

7. That so far as the role of the petitioner no.2 is concerned, he was armed with pistol and he along with other co-accused entered in the house of the complainant and caused injuries to them.

Evidence against petitioners

8. That so far as the evidence against the petitioners is concerned, complainant has specifically named them in the FIR.”

REASONING:

7. The incident relates to the year 2023 and the Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible and also failed to make out a case for custodial interrogation.

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. 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.

10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

CONDITIONS:

11. 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 Ilqa 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.

12. 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)	

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 petitioners 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. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioners 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.

15. Given the background of allegations against the petitioners, 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 petitioners 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 petitioners 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.

16. 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."

17. 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.

18. 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.

19. **This bail is conditional, and the foundational condition is that if the petitioners indulge in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

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

21. 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.

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

(ANOOP CHITKARA)
JUDGE

22.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.