

201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65666 of 2024
Decided on 28.02.2025

Sonu and Another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Suman Kumari, Advocate for the petitioners.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
75	02.07.2024	Bahawala, District Fazilka	379, 148 and 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. In paragraph 9 of the bail petition, the accused declares that they have no criminal antecedents.

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“(i). The FIR in question was registered against five accused namely (1) Sonu son of Kalu Ram (2) Bheem Sain son of Vijay Pal (present petitioners) (3) Vinod Kumar son of Satvir (4) Partish Kumar son of Pappu Ram and (5) Bhim Sain son of Jai Bhagwan on the statement of Parveen Kumar son of Vishnu Kumar.

(ii). As per the investigation, the allegations against the accused are that the accused armed with weapons, entered the shop of the complainant and gave beatings to him and they took the motor cycle of the complainant.

(iii) During the investigation conducted so far, it has been found that the complainant is running Digital Studio at Village Sitto Gunno. On 21.06.2024 the complainant was present in his shop. The accused persons

armed with weapons entered the shop of the complainant and after giving beatings to him, took away the motor cycle of the complainant. The matter is under investigation.

(iv). The petitioners have joined the investigation on 14.01.2025 on directions of this Hon'ble Court but they did not get recovered the motor cycle of the complainant."

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 petitioner and their 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:

"5. Role of the petitioners - The petitioners were specially named in the FIR. The petitioners actively participated in the commission of crime. The petitioners alongwith their co-accused snached hid chain, took money from his pocket and took away the motor cycle of the complainant after giving beatings to the complainant. The petitioner actively participated in the commission of crime.

6. That it is denied that the petitioners have been falsely implicated in the FIR in question. The custodial interrogation of the petitioners is required for investigating the case effectively and to recover the stolen motor cycle from them. There is sufficient evidence against the petitioners and co-accused to prove their guilt. The case of the prosecution stands on sound footing. In view of grave nature of crime committed by the petitioners, the petitioners are not entitled to the concession of pre-arrest bail. No ground is made out for grant of pre-arrest bail to the petitioners. No cause of action has accrued to the petitioners to file the present petition."

REASONING:

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. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

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. 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.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory 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.

11. 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)	

12. This order is subject to the petitioner's complying with the following terms.

13. 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.

14. 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. 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.

16. 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 be at liberty to cancel this bail.

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

18. 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.

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

(ANOOP CHITKARA)
JUDGE

28.02.2025
M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No.