

CRM-M-65632-2024

244

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65632-2024
Date of Decision: 19.02.2025

Raman

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
95	29.03.2024	City Kapurthala, District Kapurthala	364, 342, 323, 148 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 01.01.2025, interim protection was granted to petitioner, which is continuing till date.
3. Per paragraph 8 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	158	17.06.2024	61 of Punjab Excise Act	City Kapurthala
2.	224	29.07.2023	21, 29 of NDPS Act	Rama Mandi

4. The facts and allegations are being taken from translated version of FIR, which reads as follows:

“Statement of Jatin Sharma son of Jaspal Sharma resident of Ranjit Avenue, House No. 150 PS City, Kapurthala age about 28 years Mobile No. 62840-40683. Stated that I am resident of above address and on 25.03.2024 at about 8:00 PM I on my scooter bearing No. PB-09-A-1937 alongwith my friend Hardeep Singh son of Harbhajan Singh resident of House No. 144, Parkash Avenue were going to the market to buy curd. When we reached Bania Bazar then my scooter



CRM-M-65632-2024

suddenly stopped. There Amarjit Singh @ Laddi son of Gurbachan Singh and Veeru both R/o Nawan Pind Bhathe P.S. Kotwali came on their scooter and parked their scooter near me. Laddi told me that you have given secret information to police against me and got registered case against me. Now I have come out on bail and I will not spare you. Laddi and Veeru gave me beatings and tried to forcibly make me sit on their scooter. However, I did not sit on their scooter and raised alarm. My friend Hardeep Singh tried to free me from these persons. In the meantime, brother of Laddi namely Gulzar @ Mau son of Gurbachan Singh resident of Nawan Pind Bhathe alongwith 3/4 unknown persons on two motorcycles came there and all of them tried to forcibly make me sit on the scooter. But I did not sit on the scooter. Then they brought a E-Rickshaw and forcibly made me sit on the E-Rickshaw and I told my friend Hardeep Singh to call my brother Kishan Singh on phone. Then all these persons made me sit in the E-Rickshaw and kidnapped me and took me towards the side of Kanjli river. There they gave me beatings with wooden sticks and then through katcha track alongside Kanjli river took me to their village Nawan Pind Bhathe at the house of Amarjit Laddi. There they confined me in a room and Amarjit Laddi gave blows with wooden stick on my left leg near the ankle, blow the knees, above the knee and on right ear. Then Gulzar Mau gave blows with wooden handle which hit on my left leg near the ankle, calf and knee. Then Veeru gave blow with wooden stick which hit on my left eye and right shoulder. I fell down and all these persons alongwith unknown persons gave beatings to me while I had fallen down. Then Amarjit said that let us get case registered against Jatin at P.S. Kotwali by alleging trespassing into the house and committing theft. Then they called someone and employees of P.S. Kotwali came to the spot. My brother Kishan Sharma also came to the spot. Due to excessive injuries my brother called for ambulance on 108 and put me in the Ambulance and got me admitted to civil hospital, Kapurthala wherein I am under treatment. Amarjit Singh @ Laddi son of Gurbachan Singh, Veeru son of unknown, Gulzar @ Mau son of Gurbachan Singh and 3-4 unknown persons have kidnapped me and taken to their home and wrongfully confined me and given beatings to me and thus have committed excess. Legal action be taken. I am giving this statement in presence of my brother Kishan Sharma. I have heard my statement and same is correct. Sd/ Jatin Sharma.”

5. 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.
6. The State's counsel opposes bail.
7. An analysis of the pleadings would lead to the outcome that petitioner has been arraigned as an accused on the basis of disclosure statement of co-accused and nothing



CRM-M-65632-2024

has to be recovered from him.

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. The evidence collected might be prima facie sufficient to launch prosecution or even to frame the charges; however, it is insufficient for the purpose of denying bail.

10. Given the penal provisions invoked, the legal admissibility of evidence collected against the petitioner, 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 pre-trial incarceration.

11. Given the above, 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 anticipatory bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

12. The petitioner was granted interim protection, 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.

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	



CRM-M-65632-2024

	considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

15. The bail order is subject to the petitioner's complying with the following terms.

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. 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.

18. In Md. Tajiur Rahaman v. The State of West Bengal, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

19. **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 have the liberty to cancel this bail.**

20. 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.

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



CRM-M-65632-2024

22. 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.

23. **Petition allowed** in terms mentioned above. Interim order dated 01.01.2025 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.02.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.