

CRM-M-39574-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39574-2024
Reserved on: 01.03.2025
Pronounced on: 18.03.2025

Sukhdeep Singh @ Monu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Jattana, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G., Punjab.

Mr. G.S. Verma, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0108	09.06.2024	Bhikhi, District Mansa	307, 341, 323, 148, 149, 120-B, 427 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. Per paragraph 13 of the bail application, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	5/2022	-	336 IPC and 25, 27 of Arms Act	Khamanon
2.	0016	30.03.2024	22 of NDPS Act	Morinda

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

“Statement of Jagsir Sigh son of Gurpayar Singh son of Chand Singh resident of Bir Khurd, aged about 38 years, mobile no.94177-xxxxx. Stated that I am resident of above said address and doing agricultural work. We are two brothers and five sisters who all are married. Yesterday on 08.06.2024, at about 01:30 PM in the noon I was watering small plants (Paud) of paddy at motor at Barmi Wala fields. Then my younger brother Jaswant Singh alongwith Maninder Singh

son of Jagsir Singh of our village were returning to village on our motorcycle Bullet bearing No.PB-31R-4911 after finishing domestic work. When my brother Jaswant Singh reached in front of our fields then while I was seeing, from the side of Bhikhi one Bolero vehicle of White colour in which there were 8-9 persons came and badly hit the Bolero vehicle behind the motorcycle of my brother Jaswant Singh, both of them fell down from the motorcycle. Maninder Singh was driving the motorcycle and my brother was sitting behind. Immediately 8-9 persons armed with Gandasas, swords, rod and sticks came from the Bolero vehicle, who attacked upon my brother Jaswant Singh and Maninder Singh with their weapons to inflict injuries upon them. Maninder Singh ran towards right side of road and my brother Jaswant Singh ran towards our motor. 3-4 persons chased Maninder Singh who have inflicted injuries to Maninder Singh and 4-5 persons chased my brother. My brother Jaswant Singh alarmed killed-killed, they have encircled my brother Jaswant Singh from all the sides by stopping Bolero in front of him. Out of them Gora @ Kirch son of Bhola Singh resident of Bir Khurd armed with Gandasa, Gursewak Singh son of Nachatar Singh resident of Bir Khurd armed with sword, Kaka Singh Kheriwala resident of Dhaipai armed with Gandasa, Jugnu Singh son of Sawraj Sing, Laddi Singh son of Bittu Singh residents of Bir Khurd armed with sticks and Gurpreet Singh son of Beri son of Gurtej Singh resident of Bhikhi armed with iron rod in connivance with each other encircled my brother Jaswant Singh from all sides and in the cultivated fields with intention to kill inflicted injuries on his head, forehead and back side of head, on both the legs and arms with their respective weapons. I have also alarmed killed- killed then above mentioned accused fled away from the spot by sitting in Bolero vehicle alongwith their respective weapons towards Bhikhi. Then I have send massage to village and called our relatives and after arrangement of vehicle got my brother Jaswant Singh and Maninder Singh admitted in Government Hospital, Mansa. My brother Jaswant Singh due to seriousness and suffering of more injuries referred and we have arranged ambulance and got my brother Jaswant Singh admitted in DMC, Ludhiana, where my brother is unconscious. Today his operation is being conducted. Our motorcycle make Bullet has also been damaged. Motive is that approximately 7-8 years ago, my brother Jaswant Singh had a fight with Gursewak Singh son of Nachatar Singh etc. in the ground of our village, due to that grudge above mentioned accused Gora Singh and Kaka Singh Kheriwala, Jugnu Singh, Laddi Singh, Gursewak Singh, Gurpreet Singh Beri and 3-4 unknown persons have inflicted injuries to my brother Jaswant Singh and Maninder Singh. Legal action may kindly be taken against them and after registration of case justice be provided to us. Sd/- Jagsir Singh above.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions including surrender of fire arms, if any.
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 reply, which read as follows:

“On 16.07.2024, statement of injured Jaswant Singh was recorded by the IO. In the statement Jaswant Singh had mentioned similar facts to that of the statement got recorded by complainant Jagsir Singh. However, injured Jaswant Singh had specifically named the names of 03 unknown accused persons to be Petitioner Sukhdeep Singh @ Monu, Lovepreet Sharma @ Labhi son of Heera Singh, both residents of Baretta, District Mansa and Munshi Singh resident of Talwandi Sabo, District Bathinda. On which, above named accused persons namely Petitioner Sukhdeep Singh @ Monu, Lovepreet Sharma @ Labhi and Munshi Singh were nominated as accused in the present FIR, vide DDR No.32, Dated 16.07.2024. It is further submitted that as per the statement of injured Jaswant Singh injury No.1 to 3 was found to be inflicted by accused Jugnu Singh, Injury No.4 & 5 were inflicted by Haracharnjit Singh @ Gora, apart from injury No.4 & 5 accused Harcharanjit Singh @ Gora had also inflicted the blow of his armed gandasi on his head with the intention to kill him, one blow of which landed in the middle portion of his head and another blow landed on his forehead, Injury No.6 to 11 were inflicted by Gursewak Singh, Injury No.12 to 16 were inflicted by Gurpreet Singh @ Thori, Injury No. 17 to 19 were inflicted by Prem Singh @ Laadi and Injury No. 20 & 21 were inflicted by Maninder Singh @ Munshi. Copy of MLR report of injured Jaswant Singh is Annexure R-1 and copy of Radiodiagnosis report is Annexure R-2.”

REASONING:

7. Counsel for the petitioner has drawn attention of this Court to the following portion of status report dated 10.12.2024 filed by State counsel, which reads as follows:-

“Thereafter serial wise from Sr. no.1 to 10, as per list prepared, the ten persons were produced before victim Jaswant Singh and Jaswant Singh duly identified the accused Lovepreet Sharma @ Labhi in the court but he failed to identify the accused Sukhdeep Singh @ Monu who stood at Sr. no.8 in the queue. So in this regard statement of Jaswant Singh has also been recorded in which he stated that ten persons were produced before him for identification and out of which, he identified accused Lovepreet Sharma @ Labhi and accused Sukhdeep Singh @ Monu was not present in these ten persons.”

8. Given the stand of the complainant in not identifying the petitioner and that no grievous injury was attributed to him, it is not a case for custodial interrogation or pre-trial incarceration.

9. 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.

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

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

12. 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 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.

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 (Cr.) 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. 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 be at liberty to cancel this bail.

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.

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. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

18.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.