

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

CRM-M-3899-2025
Reserved on: 17.03.2025
Pronounced on: 26.03.2025

Sukhchain Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.K.Arya, Advocate
for the petitioner.

Mr. Gurpartap Singh Bhullar, AAG, Punjab.

Mr. Vipin Mahajan, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
82	01.12.2024	Kotli Surat Mallian, District Batala	109/118(1)/115(2)/191(3) of BNS, 2023 and Sections 25/27 of Arms Act

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. In paragraph 9 of the bail petition, the accused declares that he has no criminal antecedents.

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

“4. That it is humbly submitted that the brief facts of the FIR are that the present case/FIR was registered on the statement of the complainant on the allegations that on 29.11.2024 at about 9:30 PM, he alongwith his brother Surinder Singh was present in his house and their neighbourer Sultan Singh son of Joginder Singh called Surinder Singh outside. When his brother Surinder Singh went outside, Sultan Singh armed with kirch, Akashdeep Singh armed with kirch, accused Sukhchain Singh armed with dang and Soni armed with dattar attacked him with intention to kill him. When he went outside to save his brother, Sultan Singh also gave kirch blow to him and Deepu son of Sultan Singh fired gun shots,

while Charanjit Kaur wife of Sultan Singh raised lalkaras. The motive behind the incident, was stated to be because of dispute regarding laying of soil in the street.

5. *That, it is humbly submitted that due to the serious injuries. Surinder Singh was referred to Hospitals and as he was declared unfit to make the statement. His statement was ultimately recorded on 10.12.2024 wherein he narrated that when he went outside his house on the calling of Sultan Singh, Sultan Singh gave kirch blow in his chest and thereafter accused Akashdeep gave kirch blow near his neck and behind his shoulders, but he did not harm anyone. After that accused Sandeep Singh @ Soni gave dattar blows from its blunt side to Surinder Singh on his head and accused Sukhchain Singh gave dang blows on his head. He raised alarm upon which his brother Taranpreet Singh came outside to save him and Sultan Singh gave kirch blow to him and Mandeep Singh fired gunshots.”*

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 status report.

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

“A) The role of the petitioner

The role of the petitioner in the present case is that he caused three injuries i.e. the injuries No.7,8,9 with Daang to Surinder Singh. At the time of registration of the FIR, injured Surinder Singh was unconscious, who was firstly referred to Civil Hospital Kalanaur from where he was referred to Civil Hospital Gurdaspur and was further referred to AMC (Abrol Hospital) Hospital Gurdaspur due to serious injuries and further referred to EMC Hospital Amritsar. Surinder Singh gained consciousness and was declared fit on 10.12.2024 and thus his statement was recorded on 10.12.2024 in which he categorically named the present petitioner/accused as one of the assailants. The petitioner has caused three injuries upon Surinder Singh with the Daang.”

REASONING:

7. Counsel for the petitioner submits that petitioner is not the main accused but Sultan Singh and Deepu who is the brother and nephew of the petitioner are the main accused who gave kirch blow and fired gun shots on the complainant respectively.

8. Given the role attributed to the petitioner, 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. The investigation indicates that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

11. 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.

CONDITIONS:

12. 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.

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. 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.

15. 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.

16. 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 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.

17. 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."

18. 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.

19. It is clarified that if the petitioner violates 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 petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

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 have the 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

26.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.