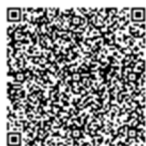


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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Decided on: 16.05.2025

Gurmeet Singh and others

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Sushma Chopra, Advocate
for the petitioner.

Mr. Sukhwinder Singh Rai, DAG, Punjab.

Mr. Sanjeev Kumar Arora, Advocate
for the complainant.

ANOOP CHITKARA, J.

| FIR No. | Dated | Police Station | Sections |
|---------|------------|------------------------------|--|
| 36 | 13.04.2025 | Makhu, District Ferozepur | 329, 303(2), 351(3), 191(3), 190 BNS 2023 |

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 16 of the bail petition, the accused has the following criminal antecedents:

| Sr. No. | FIR No. | Date | Offenses | Police Station |
|---------|---------|------------|---|------------------------------------|
| 1 | 173 | 27.11.2024 | 303(2), 329(3), 324(5), 351(3), 191(3), 190 of BNS 2023 and Sections 25 & 27 of Arms Act | Makhu, District Ferozepur |
| 2 | 29 | 22.09.2022 | 25, 27 of Arms Act and 10, 13, 18 & 20 of UAP Act | SSOC, District Amritsar |
| 3 | 143 | 07.09.2022 | 25 of Arms Act and 120 IPC | Majitha Road, District Amritsar |

3. The facts and allegations are being taken from translated copy of FIR (Annexure



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P-1), which reads as follows:

“Statement of Shivnandan Ahuja, son of Darshan Kumar, resident of Makhu, aged approximately 43 years, Mobile No. 98724-70625: stated that I am residing at the above-mentioned address. In the name of my wife Ruby, mother Kiran Bala, and sister-in-law (Bhabhi) Neha W/o Chandan Ahuja, there is ownership of land measuring approximately 15 acres situated in village Jogewala, which we had purchased in the year 2016 from Kashmir Singh son of Niranjan Singh resident of Jogewala. Since 2016 till date, we have been continuously cultivating this land. On 12-04-2025, at about 9:00 PM, we received information that two combine harvesters were harvesting the wheat crop sown by us in our above said ownership land. Thereupon, I along with my father Darshan Kumar proceeded to our land in our vehicle and reached there at about 9:15 PM. We saw that two combine harvester machines were cutting the standing wheat crop from our land, and around four to five tractor-trolleys were also stationed there. Upon noticing our car, Gurmeet Singh son of Darshan Singh armed with Kapaa, and Harpreet Singh alias Har son of Gurmeet Singh armed with a pistol and along with them were also present Gurmeet Singh's wife and Harpreet Singh alias Har's wife were standing there. All of them, residents of Jogewala, upon seeing us, raised lalkaras and shouted that we should not be allowed to leave alive today. They called upon their other 14-15 unidentified associates who were armed with baseball bats, Kaapa and Gandasa (sharp-edged weapons). They too began raising lalkaras and started forcibly harvesting our standing wheat crop and were stealing the wheat by taking it away, all the while giving us threats to life.

When we saw all of them approaching us while shouting threats. I and my father fled from the spot in our car in order to save our lives. Earlier as well, in October 2024, Harpreet Singh alias Har had stolen our paddy crop by illegally harvesting it, for which FIR No. 173 dated 27.11.2024 had been registered at Police Station Makhu.”

4. The petitioner's counsel on instructions submits that petitioner would not repeat the offence and would not enter in the land which is not in his possession. He further prays for bail by imposing any stringent conditions and contends that further pre-trial



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incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel as well as counsel for the complainant oppose the bail.

REASONING:

6. This Court is now dealing with the anticipatory bail, however perusal of the file shows that it is a land dispute, therefore, there is no necessity for petitioner's custodial interrogation and purpose would be served by only directing the petitioner to join into investigation.

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. 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.

9. 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.

CONDITIONS:

10. 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.

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. The



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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.

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. 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 (CrI.) 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 petitioner, it becomes paramount to protect the 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



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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 petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

18. 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.

19. **This bail is conditional, and the foundational condition is that if the petitioner repeats the offence or indulges in any non-bailable offence, the State may 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 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.

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

(ANOOP CHITKARA)
JUDGE

16.05.2025

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Whether speaking/reasoned: Yes

Whether reportable: No.