



CRM-M-47308-2024

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

CRM-M-47308-2024

Date of Decision: 14.01.2025

Pardeep Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

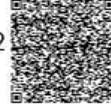
Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
77	24.04.2024	Sadar, District Jalandhar	323, 324, 326, 341, 148, 149 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. 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 FIR, Annexure P-1, which reads as follows:-

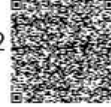
“Stated that I resident of aforesaid address and doing the work of plumber. On 16.04.2024 I alongwith my associates Sanil S/o Sarwan, R/o Village Bambiawal, Jalandhar and Raja S/o Sarwan, R/o Village Bambiawal Jalandhar were going to Village Khusropur PS Sadar Jalandhar in connection with the work and at about 12 PM when we reached near a barber shop at Khusropur Jalandhar then Rajat S/o Sunil his friend Vikas alias Mitha R/o Bambiawal Jalandhar were taking drugs. Vikas @ Motha started abusing and said that why are you staring at us and in the meanwhile Vikas @ Mitha caught hold my arms and Rajat gave blow of scissor on the back side of my left ear, after picking the same from the Rajan Barber shop, I saved myself by moving my head aside and by saving myself from them I reached my Village



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Bambialwal, where Rajat and Vikas@ Mitha alongwith rest of their friends Harry R/o Mohalla No.30, Cantt. Jalandhar, Pardeep R/o Soffy Village, Jalandhar, Vishu R/o Cantt. Jalandhar, Varun @ Kaka R/o Soffy Village, Jalandhar were there in Car No.PB082722 driven by Prince R/o Mohalla No.31, Cantt. Jalandhar. Who immediately on coming encircled me and started giving beatings to me. Rajat gave a khanda blow on the backside of my head, which hit on the left side of my head and I fell down on the ground. While I was lying down on the ground Prince S/o Mangi R/o Mohalla No.31, Cantt. Jalandhar gave a blow of base bat to me which hit on the elbow of my left hand, Pardeep, Ish and Varun @ Kaka gave fist and kick blows while I was lying down on the ground. When I raised alarm mar dita mar dita in loud voice then the aforesaid assailants ran away from the spot alongwith their respective weapons. The motive behind the incident is that Rajat was having suspicion upon me that I was working with his father Sanil and I am telling Sanil with regard to drugs consumed by him. On 16.04.2024, Sunil after arranging the vehicle got me admitted at Civil Hospital, Jamsheer where doctor issued me MLR No.JSS/155/24/JMK dated 16.04.2024 and referred me to Jalandhar Hospital. On 17.04.2024 on account of no improvement in my health my family members got me admitted at Johal Hospital Rama Mandi, Jalandhar where now I am under treatment. Till today talks regarding compromise were going on with the second party but the same could not be effected. I have got recorded my statement and produced the MLR. Appropriate legal action be taken. I have heard my statement which is correct.”

4. 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.
5. The State's counsel opposes bail.
6. Allegations against the petitioner are of causing fist and kick blows.
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. A perusal of the reply does not point out the steps taken to arrest the accused.
9. Given the above, the penal provisions invoked coupled with the prima facie



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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.

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 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.

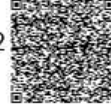
11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

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.

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.



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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

14.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.