

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

CRM-M-63838-2024
Reserved on: 20.03.2025
Pronounced on: 28.03.2025

Rajinder Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. K.S. Brar, Advocate
for the petitioner.

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

Mr. P.S. Hundal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
224	30.08.2024	City Kapurthala, District Kapurthala	105, 190, 191(3) of BNS (Section 103(2), 61(2) added and 105 of BNS deleted vide rapat no.36)

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 16 of the bail petition, the accused declares that she has no criminal antecedents.

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

“4. That the instant FIR has been lodged at the instance of Jasbir Kaur wife of Sukhdev Singh resident of village Chuharwal, Police Station Urban Estate district Kapurthala.

5. That the complainant stated that she was doing the work as maid in the houses of people and from last 12 months, she was working as maid in the house of Vipin Kumar. The complainant further stated that Vipin and his wife had leveled false allegation of theft of Rs. 11,000/- against her, had beaten her and in this regard a compromise was also affected between them. The complainant stated that her brother Malkeetpal @

Palla had kept the amount of Rs. 11,000/- in the Darbar made in their house and on dated 16.08.2024, she stopped working at Vipin Kumar's house. That she further stated that she was working in 1-2 other houses in the neighborhood i.e. Mohalla Ajit Nagar. Thereafter, they were having grudge against her.

x x x x x
7. *That co accused Vipin has caused injuries to her son with Danda, Thereafter, suddenly 10-15 unknown persons came out from their house and on seeing them, her son Harman got released himself from them and ran away from there, then all young men had chased her son Harman stopped him and then have brought him in front of their house, where they all have caused injuries on head, neck, nose and other parts of the body of Harman, due to which, he become unconscious.*

8. *That in the meantime, due to the noise in the Mohalla, Jagdeep Singh@ Jaggi son of Balwinder Singh resident of Saido Bhulana, who had come to the house of his relatives, came there along with other residents of Mohalla, then the assailants ran away from the spot and while going they threatened the complainant that if you give complaint to the police then they will kill her son. Due to fear of their threats, she took her son home and during night hours, due to bad condition of her son, she along with Raja son of Ruby resident of Chuharwal, got her son admitted in Civil Hospital Kapurthala where she did not disclose to the doctor about the injuries caused by said persons during quarrel and Vipin had also given her financial assistance for the treatment of my son Harman, thereafter, the doctor has not issued MLR.*

9. *That the complainant further stated that due to serious condition of my son, doctor has referred him on dated 22.08.2024 in the morning to Sri Guru Nanak Dev Hospital, where during treatment, her son Harman has died on dated 29.08.2024 around 9.00 AM. She further prayed that action be taken against the culprits.”*

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 reply, which read as follows:

“6. That on dated 21.08.2021, at around 5.15 PM, she was working in the Kothi in front of house of Vipin Kumar then her younger son Harman came to take her and when she was about to leave with her son then Vipin, his wife Megha and his mother Rajinder Kaur, present petitioner, who were standing at the gate of their house started to taunt her about the theft, then her son Harman told them not to do so, then they altercated with her son.”

REASONING:

7. The injuries were attributed to Vipin Kumar and 10-15 unknown persons and no where amongst those persons, any woman has been mentioned. Further petitioner was stated to have been present along with her son who is one of the main accused to whom injuries have been attributed. Thus, the only role of the petitioner is that she was present at the spot along with her son.

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. 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. This order is subject to the petitioner's complying with the following terms. 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.

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 (CrI.) 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 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. 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.

21. 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 have the liberty to cancel this bail.

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

23. 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.

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

(ANOOP CHITKARA)
JUDGE

28.03.2025

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.