



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

CRM-M-46508-2024

Date of decision: 13.01.2025

Varinder Singh

...Petitioner

Versus

State of Punjab and anothers

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. L.S.Mann, Advocate, for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
100	22.08.2024	Fatehgarh Sahib	118(1), 115(2), 351(1), 351(3), 191 (3), 190, 61(2) 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. In paragraph 8 of the bail petition, the accused declares that he has no criminal antecedents.

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

“Copy of statement, statement of Mankaran Singh s/o Manga Singh r/o Village Luhar Majra, PS Mandi Gobindgarh, Distt. Fatehgarh Sahib, aged about 24 years, M.NO.97817, stated that I am a resident of abovementioned address. I am studying M.Sc. Vegetable Science at Mata Gujri College Fatehgarh Sahib. On 20.08.2024, I and my friend Gurbaj Singh were sitting in Maska Chai Bar City Centre, near Khanda Chowk and were taking tea then at about 3.45 pm, Avi r/o Bassi Pathana called me by raising voice to come outside the Bar then I came outside and saw that youths came out of the car 1-20 parked outside out of which, Varinder Singh armed with kirpan, Harbal Dhadli rs/o Bulari Kalan armed with wooden stick, Gursimran Singh alias Sammi r/o Malkomajra armed with wooden stick, Akash Khatra r/o not known armed with stick came then Avi said by raising lalkara that today Mankaran should not let go then all the



persons started beating me with sticks then Varinder Singh gave kirpan blow upon me then I raised my left hand in order to save myself then the kirpan hit on the little finger of my left hand. Then I fell down then Kirpan Singh gave two more blows of the kirpan which hit below my right lip and one hit above the left lip then in the meantime, Nikhil R/o Bassi Pathana armed with wooden stick baseball and two unknown youths came who in my fallen condition, gave baseball blow upon my head and started giving beatings with legs. I raised noise of mar ta, mar ta, then after hearing my noise, Amrish Kumar son of Ved Parkash r/o Old Sirhind, Jaswinder Singh s/o Charan Singh r/o Lohri Kalan, PS Samrala, Distt. Ludhiana and some other persons came at the spot and they tried to save me. After seeing the people gathering at the spot, all the accused ran away in their car alongwith their respective weapons while hurling threats to kill me. Then I became unconscious. The motive is that about 7-8 days earlier, I was having tea with my fiancée in the canteen of Mata Gujri College then Varinder Singh and Shivjit Singh alias Shiva pulled chair of my fiancée namely Ramanpreet Kaur d/o Jagdeep Singh r/o Niarniyam, Distt. Mohali then due to that reason, there occurred heated exchange of words between us and due to that very grudge, Shivjit Singh aforesaid gave beatings to me. My friend and my father Mnaga Singh s/o Kesar Singh got me admitted at Civil hospital Fatehgarh Sahib. Yesterday on 21.8.2024, Doctor referred me to GMCH Sector 32 Chandigarh for conducting CT scan and for conducting test of ear and nose where I was discharged by the doctor on 22.8.2024. Now I have come to inform you that you have met at main gate of the police station. I have got recorded my statement in the presence of my father Manga Singh. Statement heard, is correct. Kindly take legal action against the aforesaid persons.”

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 and refers to the reply.
6. It would be appropriate to refer to the following portions of the reply dated 12.10.2024, which read as follows:

“5. That the status of the accused persons including the present petitioner in the present case is as follows;

Sr. No.	Name of Accused	Date of arrest	Weapon (s) used in the commission of offence	Recovery



1-	Varinder Singh (present petitioner)	Yet to be arrested	Sword	-
2-	Harbaldeep Dhandli	Joined investigation on 05-10-2024	Stick	Destroyed by accused (Section 238 BNS enhanced)
3-	Abhinav Verma @ Avi	Joined investigation on 06-10-2024	-	-
4-	Gursimran Singh @ Sammi	Yet to be arrested	Stick	-
5-	Akashdeep Singh @ Akash Khatra	Yet to be arrested	Stick	-
6-	Nikhil	Yet to be arrested	Stick	-
7-	Shivjeet Singh @ Shiva	Yet to be arrested	-	-

ROLE OF THE PETITIONER

8. That the petitioner Varinder Singh is the main accused in the present case. Varinder Singh gave Sword blow on the left hand of the complainant and he fell down. Varinder Singh gave two another Sword blows to the complainant which hit below his right lip and one above his left lip. 3 sharp injuries has been inflicted by Varinder Singh to the complainant. The nature of the injuries is awaited. The Sword used by the petitioner in the commission of the offence is yet to be recovered from him. Therefore, the custodial interrogation is crucial for the proper investigation in the present case. Hence, the present petitioner is not entitled for grant of regular bail.”

7. An analysis of the allegations levelled in the FIR and reply would lead to the following outcome.

8. Although, as per the MLR, incised wounds are found which corroborates the incident and occurrence but the nature of wounds is not as serious as to call for pre-trial incarceration or custodial interrogation and coupled with this, the petitioner, aged about 19 years, is first offender.

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. 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, subject to the compliance of terms and conditions mentioned in this order.

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.

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. 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.

17. 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.

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

13.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.