

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

CRM-M-2271-2025
Reserved on: 16.01.2025
Pronounced on: 30.01.2025

Nafis @Sonu and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Navneet Singh, Advocate for the petitioners.

Ms.Trishanjali Sharma, DAG, Haryana.

Mr. K.S.Rawat, Advocate for the victim/complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0595	16.12.2024	Yamuna Nagar Sadar, Yamuna Nagar	115(2),118(1),118(2),190,191 (3), 333 and 351(3) BNS

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 translated copy of FIR attached with the bail, which reads as follows:

“SHO Sir, Police Station Sadar Yamuna Nagar Sir, It is requested that I am Naseem Ahmed son of Shri Amir Hasan resident of village Todarpur Police Station Sadar Yamuna Nagar District Yamuna Nagar and I am an agriculturist and I have a grocery shop inside my house in the village and I also look after the work at the shop. On 15-12-2024 at around 11.00 A.M. I received a call on my mobile phone from Afsar son of Haroon resident of Todarpur asking where is your brother Mosim. So I told Afsar that he is not here and regarding this matter Afsar started misbehaving with me. And then at around 11.10 A.M Afsar son of Haroon, Nafees alias Sonu son of Haroon, Harun son of Tahir and 4-5 other boys came there with axes and sticks and first of all Harun came inside my shop and abused me and on hearing the noise my mother Waheeda came to the spot and Nafees alias Sonu hit my

mother's right arm with the axe which he was holding in his hand and Harun hit my mother's right arm with the axe which he was holding in his hand and Afsar hit my mother on the right side with a rod and others punched me and my mother. Then on hearing the noise and seeing other people of the village gathering there, they all took their weapons and ran away. While leaving they said that today you have been saved but next time you do this then we will kill you. Nafeesh alias Sonu, Harun, Afsar and others entered our house and shop and beat me and my mother. Please take legal action against all of the above. SD/- Naseem Ahmed Applicant Naseem Ahmed son of Shri Amir Hasan resident of village Todarpur Police Station Sadar Yamuna Nagar, District Yamuna Nagar Phone No. 9050370438.”

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. Although the allegations are of an axe blow but counsel for the victim and aggrieved persons state on instructions that they have compromised the matter out of Court and they have no objection if this Court grants the bail without legal validity of the compromise and considering the fact that the petitioners are first time offenders.

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. 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 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 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. 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.

15. 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.

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 have the 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

30.01.2025

M.Sikka

Whether speaking/reasoned: Yes

Whether reportable: No.