

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

CRM-M-64346-2024
Reserved on: 16.01.2025
Pronounced on: 27.01.2025

Gurpal Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manoj R. Sharma, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
170	08.11.2024	City Gurdaspur, District Gurdaspur	118(1), 191(3), 190 of 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 08 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts of the case are being taken from typed copy of FIR (Annexure P-1), which reads as follows:

“Statement of Rajbir Singh son of Ravel Singh resident of Dhariwal Khichiya, police station Purana Shalla, aged 22 years Mobile No.76961-xxxxx stated that I am a resident of the said address and I am studying at Campus University Gurdaspur. On 30.10.24, I went alongwith my friend Sahil on my motorcycle to get the fuel from Behrampur Road Gurdaspur petrol pump. When I tried to get the fuel from the petrol pump then three boys came on a Bullet motorcycle and stopped nearby me. In the meantime, some other boys also came on one Activa scooter and a motorcycle Splendor and stood near the Bullet motorcycle. When all of them gathered, then all of them were having dattar, baseball and kirpans

and I also recognised some of them. When after getting the fuel I tried to go out from the petrol pump then in the meanwhile Mohit son of Sushil Kumar r/o Prem Nagar Gurdaspur who came to me and gave his dattar blow upon my head which was tried to stop by me by raising my left arm then dattar blow hit a little behind of joint of my left arm and Karan son of Nirmal Singh, resident of Prem Nagar, Gurdaspur, who raised lalkara and said to catch hold of me and don't let me go then Gurpal Singh son of Kuldeep Singh, resident of Jail Road, Gurdaspur, started hitting my right leg with the baseball having in his hand and Joban son of Bhola Masih resident of Prem Nagar Gurdaspur, started hitting my waist with the handle of kirpan he was holding in his hand and I fell on the ground. Then Rajid son of Surinder Kumar, resident of Prem Nagar, Gurdaspur, in my fallen condition, started hitting me with the legs and fist blows then my friend Sahil son of Dalip, resident of Mana, who came with me, tried to get me free from these boys. Then all of them started scuffling with him and beating him. Then I raised noise of mar dita, mar dita. Then in the meantime, people started gathering then on seeing this, the assailants fled away from the spot alongwith their respective weapons. Due to receiving excess injury little behind on the joint of my left arm, I became badly injured then my friend Sahil arranged the vehicle and got me admitted at the Civil Hospital in Gurdaspur. The bone of contention is that few months ago they had quarrelled with my friend Sahil fight broke out and in that regard matter was also compromised with these boys but these boy again attacked me and caused injuries to me. I got discharged from the Civil Hospital in Gurdaspur on 4.11.24. Legal action should be taken against the said boys. xxxx xxxx”

4. Counsel for the petitioner seeks bail on the ground that the incident had taken place on 30.10.2024, whereas, the FIR was registered on 08.11.2024 i.e. after the delay of 09 days and the delay was sufficient to introduce false story.

5. 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 his family.

6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

“12. ROLE OF THE PETITIONER

It is submitted that petitioner Gurpal Singh was armed with baseball bat and he gave blows therewith on the right leg of the complainant. The offence under Section 118(1) BNS is made out against the petitioner.”

8. The allegations against the petitioner-Gurpal Singh are that he was armed with baseball bat and gave blows on the right leg of the complainant. Given the fact that the petitioner did not attack on the vital part of the complainant and he has clean antecedents, considering it is appropriate to afford him a chance to course correct and in such background, this Court is inclined to grant bail to the petitioner.

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.

11. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

12. 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.

13. 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.

14. 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)	

15. 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.

16. 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.

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. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

20. 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

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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.

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

(ANOOP CHITKARA)
JUDGE

27.01.2025

Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.