



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

CRM-M-34575-2024

Date of decision: 13.01.2025

Sukhdev Singh @ Sukha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikasdeep Singh, Advocate,
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
10	05.03.2024	Kabirpur (Ahalikalan), Kapurthala	302, 34 IPC and 120-B, 148, 149 IPC added later on

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 Cr.P.C, seeking anticipatory bail.

2. Per paragraph 19 of the affidavit dated 07.11.2024 filed on behalf of the State, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Sections	Police Station
1.	43	29.08.2013	61-1-14 of the Excise Act	Kabirpur
2.	44	18.06.2022	22, 61, 85 of the NDPS Act	Kabirpur

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

Statement of Jugraj Singh S/o Resham Singh r/o Hussainpur Bullay PS Kabirpur District Kapurthala aged about 63 years, M.No.95017-78408. Stated that I am resident of above given address and is an agriculturist. We are 3 brothers and 2 sisters in the family, out of my 3 brothers Virsa Singh is eldest and I am younger to him and the youngest is Balbir Singh. We 3 brothers are residing at the dera near Village Hussainpur and we all have separate houses. My younger brother resides with his family in his house whose elder son Sukhchain Singh is



...serving in the army and his daughter-in-law Baljit Kaur along with her son resides in this house and my brother Balvir Singh younger son is residing in England along with his family. Our daughter-in-law Baljit Kaur on 05.03.2024 in the morning told us that on 04.03 2024 at about 07:30 at night my brother Balvir Singh had returned home with Lakhwinder Singh @ Lakha son of Sadhu Ram of our village and Lakhwinder Singh @ Lakha had gone to his house. Balvir Singh and the family were sitting after having food that at about 8 P.M. in the night Balvir Singh received telephonic call from Lakhwinder Singh @ Lakha S/o Sadhu Ram R/o Hussainpur Bullay upon which my brother Balvir Singh told his daughter-in-law about the phone call of Lakhwinder Singh @ Lakha and he calling him went outside the house and did not return the whole night. To find my brother Balvir Singh we checked with the residents of the village and our relatives residing nearby and around the village. While finding my brother Balvir Singh when we reached at the motor of their fields and found that outside the motor room Balvir Singh was lying on the ground in a pool of blood and when we checked he was dead and his body was cold. On checking him, it was found that Balvir Singh received injuries on his head, neck with sharp edge weapons and other internal injuries. Due to the said injuries my brother Balvir Singh died. I have full suspicion that Lakhwinder Singh @ Lakha by conspiring with unknown persons have murdered my brother Balvir Singh with sharp edge weapons due personal enimity”

4. On 02.09.2024, this Court had passed the following order:-

“XXX

2. *The translated copy of FIR has been annexed as Annexure P-1 which reads as follows:-*

"Statement of Jugraj Singh S/o Resham Singh r/o Hussainpur Bullay PS Kabirpur District Kapurthala aged about 63 years, M.No.95017-78408. Stated that I am resident of above given address and is an agriculturist. We are 3 brothers and 2 sisters in the family, out of my 3 brothers Virsa Singh is eldest and I am younger to him and the youngest is Balbir Singh. We 3 brothers are residing at the dera near Village Hussainpur and we all have separate houses. My younger brother resides with his family in his house whose elder son Sukhchain Singh is serving in the army and his daughter- in-law Baljit Kaur along with her son resides in this house and my brother Balvir Singh younger son is residing in England along with his family. Our daughter-in-law Baljit Kaur on 05.03.2024 in the morning told us that on 04:03:2024 at about 07:30 at night my brother Balvir Singh had returned home with Lakhwinder Singh @ Lakha son of Sadhu Ram of our village and Lakhwinder Singh @ Lakha had gone to his



house. Balvir Singh and the family were sitting after having food that at about 8 P.M. in the night Balvir Singh received telephonic call from Lakhwinder Singh @ Lakha S/o Sadhu Ram R/o Hussainpur Bullay upon which my brother Balvir Singh told his daughter-in-law about the phone call of Lakhwinder Singh @ Lakha and he calling him went outside the house and did not return the whole night. To find my brother Balvir Singh we checked with the residents of the village and our relatives residing nearby and around the village. While finding my brother Balvir Singh when we reached at the motor of their fields and found that outside the motor room Balvir Singh was lying on the ground in a pool of blood and when we checked he was dead and his body was cold. On checking him, it was found that Balvir Singh received injuries on his head, neck with sharp edge weapons and other internal injuries. Due to the said injuries my brother Balvir Singh died. I have full suspicion that Lakhwinder Singh @ Lakha by conspiring with unknown persons have murdered my brother Balvir Singh with sharp edge weapons due personal enmity.”

3. Prosecution case is being extracted from status report dated 03.08.2024 filed by concerned DySP which reads as follows:-

“6. Accordingly, the IO recorded the statement of the complainant and sent ruqa for registration of the present FIR against accused Lakhwinder Singh @ Lakha, who was arrested on 05-03-2024 and was produced before the court of SDJM, who ordered for the police remand of the accused for further investigation. During the course of further investigation, the said accused recovered the weapon/Takua, by which he inflicted deep sharp injuries on the head of Balbir Singh as well as the blood-smeared shirt and mobile phone of the deceased. Not only this, the said accused narrated the cause of the murder of Balbir Singh and the participation of the petitioner along with other companion/accused Sandeep Singh @ Seepa, Kamaljit Singh, Joban Singh (Juvenile), Sukhwinder Kaur and Gian Singh vide his disclosure statement dated 08-03-2024. Similarly, co-accused Sandeep Singh @ Seepa vide his disclosure statement dated 11-03-2024 has ensured the active participation of the petitioner in the commission of crime. The arrest memos and recovery memos have been prepared accordingly.

8. That on the basis of the statement of the complainant, the present FIR was registered and the investigation was initiated during the course of which accused Lakhwinder Singh @ Lakha was arrested. The applicant/accused was nominated as accused in the case on the basis of the disclosure statement made by co-accused Lakhwinder Singh @ Lakha qua the commission of the crime and DDR no: 13 dated 09-03-2024 has been endorsed in this effect and sections 120-B, 148, 149 IPC have been added, while section 34 IPC has been deleted in the FIR.”

4. Counsel for the petitioner submits that the only available evidence against the petitioner is in the shape of disclosure statement, however State counsel has referred to para no.11 of the status report which reads as follows:-

“11. That the investigation is at the initial stage and the relief of anticipatory bail at this stage to the petitioner can hamper the investigation and the petitioner can fly abroad. However, there is strong apprehension



that the petitioner can access the prosecution witnesses. So, the relief of bail should be desisted at this stage.”

5. An analysis of the above arguments would prima facie led to the conclusion that since the evidence available against the petitioner so far is only in the shape of disclosure statement and the allegations are serious, as such to conduct the investigation in a fair and impartial manner, it is essential that petitioner is directed to join investigation and fresh status report is furnished to this Court after the petitioner has joined investigation.

6. Given above, there shall be stay of arrest of the petitioner till the next date of hearing subject to the petitioner's joining investigation on 11.09.2024, 12.09.2024 and 13.09.2024 at 10.00 A.M. and as and when called upon to do so.

7. List on 16.09.2024.

8. Fresh status report be filed by the next date of hearing.

9. It is clarified that for the purposes of Section 27 of Indian Evidence Act as well as corresponding provision of Section 23(2) of BNS, the petitioner shall be in deemed custody.”

5. After passing of the abovesaid order, fresh reply has been filed and order dated 27.09.2024 has been passed which reads as follows:-

“XXX

2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner has filed counter affidavit to the status report dated 15.09.2024 and copy thereof is stated to have been supplied to State counsel.

4. It would be appropriate to reproduce paras no.5 to 9 of the said affidavit which reads as follows:-

“5. That deponent in presence of surety informed investigation officer ASI Satwinder Singh that he is innocent and has not caused any injuries and he does not have the weapon (knife).

6. That during this time, investigation officer ASI Satwinder Singh on his own got a kitchen knife and the said kitchen knife was shown to be produced by me. He even forced me to hold the knife which I refused. Then in the presence of the deponent and surety, the investigating officer said that in order to complete the formalities of investigation, the knife is required.

7. That the knife which is now shown to be taken into police possession by DDR No.14 dated 13.09.2024 was not given by me but was got by investigation officer ASI Satwinder Singh on his own and it was taken into police possession as a case property and this fact is not in my knowledge.

8. That I am innocent the investigation officer ASI Satwinder Singh has wrongly shown the knife to have been recovered/produced by me. Even my signatures were obtained on numerous blank papers.



9. *That even the surety namely Jaswinder Kaur (sister) who accompanied the deponent can despire regarding the above mentioned aspect.”*

5. *In the entirety of facts and circumstances of the case, let the concerned Superintendent of Police file an affidavit regarding the entire investigation conducted till next date.*

6. *List on 12.11.2024.*

7. *Interim order to continue.”*

6. Later on, fresh reply dated 07.11.2024 has been filed .

7. 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.

8. Petitioner’s counsel argued that petitioner was not named in the FIR. There is no eye witness to the murder and petitioner’s name surfaced from disclosure statement.

9. However, to the contrary, State counsel opposed the bail and submitted that during interrogation, petitioner had got recovered one of the weapon of offences i.e. knife which is sufficient to connect him with the alleged offence and this would lead to the following outcome.

10. It would be appropriate to refer to the following portions of the reply dated 07.11.2024, which read as follows:

“ Investigation by the Police:

6. That after the lodging of the FIR no. 10, Lakhwinder Singh @ Lakha was arrested on dated 06.03.2024. Then he was then presented before the Ld.Court and a five days of police remand was granted. That during the custody period Lakhwinder Singh @ Lakha produced before the Investigating Officer the weapon he used in the crime, the blood stained clothes and the mobile phone of the deceased. That Lakhwinder Singh @ Lakha also made a disclosure statement implicating several individuals, including Gian s/o Dara, Sukhdev Singh alias Sukh, the present petitioner, Sandeep Singh alias Seepa s/o Gulzar Singh, Kamaljit Singh alias Kabba s/o Balwinder Singh, Sukhwinder Kaur w/o Lakhwinder Singh @ Lakha and Joban Singh s/o Lakhwinder Singh @ Lakha. Follwoing this disclosure, charges u/s 120-B, 148 and 149 IPC were added vide GD no. 13 dated 09.03.2024 to the case, while the charge u/s 34 IPC was omitted.

7. That on dated 09.03.2024 co-accused Gian s/o Dara, Sandeep Singh alias Seepa s/o Gulzar Singh, Kamaljit Singh alias Kabba s/o



Balwinder Singh, Sukhwinder Kaur w/o Lakhwinder Singh @ Lakha were arrested. That on dated 11.03.2024 Joban s/o Lakhwinder Singh @ Lakha who is a juvenile was also arrested and presented before the Ld.Court.

8. That on dated 11.03.2024 the co-accused Sandeep Singh @ Seepa recovered the weapon, a dagger, used in the crime and the same was taken into police custody. That Sukhwinder Kaur w/o Lakhwinder Singh @ Lakha got recovered the mobile phone of her husband which was also taken into custody.

Role of the petitioner:

9. That the petitioner after being granted the interim protection vide order dated 02.09.2024, appeared before the Investigating Officer on 12.09.2024 in compliance with the orders of this Hon'ble Court. That the petitioner joined the investigation and was subsequently released on bail after furnishing bail bonds and surety.

10. That during the investigation, the petitioner recorded his statement, in which he stated that Lakhwinder Singh @ Lakha was his relative and his father Gian Singh, also a co-accused, used to work in agriculture and were known to Balvir Singh, deceased, who used to help them financially.

11. That Lakhwinder Singh alias Lakha had told Gian Singh, father of the petitioner, that Balvir Singh had a bad eye on his wife Sukhwinder Kaur and had wrongfully behaved with her on several occasions. Regarding which he was told by his wife Sukhwinder Kaur. That Lakhwinder Singh alias Lakha and his younger son Joban Singh had witnessed Balvir Singh 's inappropriate actions toward Sukhwinder Kaur and he told about this to the father of the petitioner Gian Singh.

12. That further Gian Singh told the petitioner about this, who expressed strong objections to Balvir Singh's actions. That because of this reason they all began harboring a grudge against Balvir Singh. That the petitioner further confessed that he along with the co-accused Lakhwinder Singh alias Lakha, his father Gian Singh, Lakhwinder Singh's wife Sukhwinder Kaur, his son Joban Singh, one person named Sandeep Singh alias Seepa who used to work with Lakhwinder Singh and Kamaljit Singh alias Kabba son of Balwinder Singh all decided to teach Balvir Singh a lesson in this regard and prepared the plan in this



regard.

13. That the petitioner further stated that on dated 04.03.2024 father of the petitioner Gian Singh and Lakhwinder Singh alias Lakha invited Balvir Singh to drink alcohol at the house of Lakhwinder Singh alias Lakha at Hussainpur. They informed Balvir Singh that they had cooked meat at the house and asked him to bring a bottle of liquor. On which Balvir Singh bought a bottle of liquor and came to the house of Lakhwinder Singh alias, where Gian Singh was already present. That the petitioner has further stated that his father Gian Singh, Lakhwinder Singh alias Lakha and Balvir Singh drank alcohol and according to the plan they left Balvir Singh at his house around 07.30 night. After that, according to the plan made by them, then Gian Singh along with petitioner bearing a knife, Sandeep Singh alias Seepa bearing a Dagar and Kamaljit Singh alias Kabba also bearing a Dagar, at around 12:00-12:15 PM they reached at the spot where they hid and waited in secret, ready to carry out their planned attack.

Injuries attributed to the accused:

14. That on dated 05.03.2024 time around 02:00 A.M. Sukhwinder Kaur and Balvir Singh arrived at the motor and after them Lakhwinder Singh Musalla Takua and his son Joban Singh also arrived empty handed and on their arrival Lakhwinder Singh alias Lakha's wife Sukhwinder Kaur challenged them to protect her honour and not to spare Balvir Singh. At which they all came out and Lakhwinder Singh alias Lakha's son Joban Singh caught hold of Balvir Singh. Then Lakhwinder Singh alias Lakha hit Balvir Singh on the head with the a Chisel held in his hand and then hit Balvir Singh's head with his chisel one more time and Balvir Singh fell down. Then Gian Singh encouraged us all the others saying "He has to be finished today, he has played with our dignity, he has to be killed and not left alive." On which the petitioner Sukhdev Singh @ Sukha stabbed Balvir Singh in the neck several times with my knife and then Sandeep Singh alias Seepa struck the right side of Balvir Singh's neck with his dagger. After this, Kamaljit Singh alias Kabba struck the right side of Balvir Singh's neck with his dagger. Then Sandeep Singh alias Sipa struck the left side of Balvir Singh's neck with his dagger. Then Kamaljit Singh alias Kabba struck Balvir Singh's shoulder with his dagger. Due to these injuries Balvir Singh died and after verifying the same all the accused along with their respective weapons went back home. That while they



were leaving Lakhwinder Singh alias Lakha had also taken out Balvir Singh's mobile phone.”

11. Analysis of the above arguments and State's contention would lead to the following outcome.

12. Although the initial suspicion against the petitioner has come in the disclosure statement and the legal admissibility of such a disclosure statement is barred under Sections 25 and 26 of the Indian Evidence Act, but when the petitioner has joined investigation and he produced a knife which was used in the crime, thus, discovery of fact is admissible under Section 27 of the Indian Evidence Act. Copy of PMR is annexed as Annexure R-1 in the reply dated 03.08.2024. Perusal of above-said annexure points towards incised wounds. The presence of incised wounds and discovery of knife are sufficient prima facie evidence which prima facie indicts the petitioner with the commission of the offence and he is not entitled to bail.

13. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for anticipatory bail. The impact of crime would also not justify anticipatory bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

14. Regarding the contradiction pointed out by the petitioner's counsel, it is subject matter of appreciation by considering the availability of motive and the heinous nature of offence, it is not a case of anticipatory bail.

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

16. Petition dismissed. Interim order dated 02.09.2024 and all the subsequent order qua extension of stay of arrest are recalled with immediate effect. All pending applications, if any, are disposed of.

**(ANOOP CHITKARA)
JUDGE**

13.01.2025

smriti

Whether speaking/reasoned: Yes

Whether reportable: No.