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

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Date of Decision: 11.08.2025

Deepak Kushwaha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Varun Goyal, Advocate
for the petitioner.

Ms. Pooja Nayar Sharma, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
58	23.04.2025	Bhargo Camp, Jalandhar	115(2), 118(1), 351(2), 351(3), 3(5) 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. Per paragraph 10 of the bail petition, the petitioner has no criminal antecedents.
3. The facts and allegations are being taken from the translated version of FIR, which reads as follows:

“Statement of Abhishek son of Rachpal resident of house no. 315 Jaina Nagar, Police Station Bhargo Camp Jalandhar age 19 years Mob. no. 76966-38259 stated that I am a resident of the above address. I worked at Inder Industry Near Bhaiya Mandi Factory. On 18.04.2025, at about 8-00 PM, I came to my house after taking leave. At around 8-15 PM, Ritak jha alias Pandit, son of Suman jha, a resident of my locality, called me from mobile number 9877076568 and my mobile number 97791-74297 and told me to come out of the house and as he wanted talk to me. Then I came out of the house. I went with him to near Shiv Puri at the back side of his house. There, Deepak, a resident of Nakha Bagh, Jalandhar, Sujal, a resident of unknown, and Bhupesh @Laddi, son of Jaswinder Kumar, a resident of house no. 63, Bhargo Camp, Jalandhar, who had a Dattar, were standing there. They started looking at my mobile. After looking at the phone, they asked me that you know a girl named Muskan. I said that I do not know a girl named Muskan. Then Laddi slapped me and the



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others caught me and the Laddi continuously hit me with the Dattar held in his hand which hit my right and left hands, right arm, right shoulder and left side of my chest. I started shouting and they left me. I ran to my house. The Laddi ran after me with the dattar I his hand but it fell on the road and I entered my house and locked it from inside. The laddi threatened to kill me. Then my brother Gitesh took me to Civil Hospital Jalandhar on his active Where the doctor admitted me and cut my MLR and discharged me the next day I came back home. The reason is that Laddi has a doubt I am talking to a girl named Muskan that is why they have attacked me. Since I suffered injuries so I could not mention it. Today I came to the police station and got the statement recorded in the presence of my brother Ritesh. I read it. It is okay. Strict action should be taken against them”

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 petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

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

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

“Role of the petitioner:

i) Complainant received telephonic call from co-accused Ritik Jha on 18.04.2025 at 08.15 PM called him to come out of his house as he want to talk to him. Complainant and co-accused Ritik went to the back side of his house. Petitioner along with co-accused Sujal and Bhupesh @ Laadi who was armed with Daatar were already present there.

ii) Petitioner along with co-accused snatched the mobile phone of the complainant and examined it. There upon Laadi slapped the complainant and the petitioner along with co-accused Sujal caught hold of him and co-accused Laadi gave Daatar blows on the left and right hands, right arm, near right shoulder and on the left side of the waist of the complainant.

iii) Petitioner along with co-accused in connivance with each other had attacked the complainant and pursuant to that intention co-accused Bhupesh @ Laadi had given injuries to the complainant, while the petitioner and other co-accused Sujal had held the complainant from his arm.”



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8. The only allegation against the petitioner is that he caught hold of the complainant from his arm. Since no injury is attributed to the petitioner and petitioner is a first offender, this Court wants to afford an opportunity to the petitioner to course correct.

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, petitioner being first offender 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. 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.

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. 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.



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15. 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 (Cr.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

16. 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.

17. 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."

18. 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



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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.

19. 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.

20. **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.**

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

22. 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.

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

(ANOOP CHITKARA)
JUDGE

11.08.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.