

CRM-M-55901-2024

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

CRM-M-55901-2024
Reserved on: 13.01.2025
Pronounced on: 24.01.2025

Pawan Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Abhishek Sobti, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
329	22.10.2024	Dera Bassi	108 of BNS

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 17 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 the FIR annexed at Annexure P-1, as per which when the complainant got to know about his father's ill health and was taking into hospital, then in the car he inquired from his father about the reasons for consuming poison and he told him as follows:-

“Pawan kumar s/o Sh. Bant Ram R/o Village Manauli Surat tehsil Derabassi District SAS Nagar has hurt me a lot, who hurt me financially as well as mentally from last 4-5 years, I had withdrawn and given the amount of his FD but he had hurt me, he had circulated my news in the newspaper due to which I had faced insult and humiliation in the market and after getting hurt due to this insult and humiliation I am ending my life by consuming Celphos.”

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.

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5. The State's counsel opposes bail and further brings to the notice of this Court about suicide note recovered, annexed at Annexure R-1/T, which reads as under:-

"I Sushil Kumar son of Sh. Ruldu Ram is the resident of Street No. 2, Mohan Nagar, Derabassi. From the past 4-5 years, I have been harassed by Pawan Kumar son of Sh. Bant Ram-resident of Manoli Surat, Tehsil Derabassi, Distt. SAS Nagar, Mohali, whose mobile no. is 81462xxxxx Firstly, I was called and insulted for 5-6 times by calling me at PS Derabassi by saying that he has not received the payment of the FDR at Post Office. Then he published news against me in the newspapers, due to which, I suffered great loss in my business. Pawan Kumar did naam dharam in Shri Gurudwara Sahib and later on resiled from it. And now filed court case. Due to this, I am starting to feel mentally disturbed. I donot find another way except to die, due to which, only Pawan Kumar S/o Bant Ram resident of Manoli Surat, Tehsil Derabassi is the reason behind my death. It is requested that action be taken against him."

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

"6. Role of petitioner:- That petitioner insulted and humiliated the deceased and circulated a news in a newspaper against the deceased due to which, the deceased had committed suicide by consuming poison sulphas."

7. An analysis of the allegations do point out the petitioner's unethical, immoral conduct but the allegations are general in nature. The allegations might be sufficient for launching prosecution against the petitioner, however for the purpose of bail, based on such allegations, if petitioner is sent for pre-trial investigation or custodial interrogation, might be unjustifiable.

8. 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.

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.

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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned 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:

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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. The petitioner is directed to join the investigation 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. 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.

13. 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.

14. 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.

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. 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.

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

(ANOOP CHITKARA)
JUDGE

24.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.