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

**CRM-M-26508-2025 (O&M)**

**Date of Decision: 15.05.2025**

**Bharat Atwal @ Jolly**

....Petitioner(s)

Versus

**State of Punjab**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. H.P.S. Ghuman, Advocate, for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, Sr. DAG, Punjab

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**JASGURPREET SINGH PURI, J. (Oral)**

1. The present is a third petition filed under Section 482 of BNSS for the grant of anticipatory bail to the petitioner in FIR No.114 dated 10.07.2024, under Sections 80, 3(5) of BNS (Section 85 of BNS added later on), registered at Police Station Jalandhar Cantt. District Jalandhar.

2. Learned counsel appearing on behalf of the petitioner submitted that this is a third successive anticipatory bail petition filed before this Court. He submitted that when he filed the first anticipatory bail petition before this Court, he withdrew the same on 08.01.2025 vide Annexure P-10 and the reason for the withdrawal of the aforesaid petition was that it was so apprised by the State counsel in that case that the petitioner has been declared as a proclaimed offender and therefore, the petitioner withdrew the anticipatory bail petition. Thereafter, he filed a second anticipatory bail petition which again the counsel for the petitioner withdrew by stating that



the petitioner wishes to surrender before the learned trial Court and therefore, the second petition was withdrawn vide Annexure P-11 on 20.03.2025. He submitted that now the present is a third successive bail petition and the same is maintainable on merits despite the fact that his earlier two anticipatory bail petitions were withdrawn and in this regard, he referred to a judgment of Hon'ble Supreme Court in *Asha Dubey Versus State of Madhya Pradesh, Criminal Appeal No.4564 of 2024 (@ SLP (CRL.) No.13123/2024, decided on 12.11.2024*. He submitted that he has a good case on merits and even though as of today he is a proclaimed offender, his third successive anticipatory bail petition may be considered.

3. Learned counsel submitted the following arguments.

(i) He submitted that on the issue of maintainability even if the petitioner is admittedly a proclaimed offender, still a petition for grant of anticipatory bail will lie in view of the aforesaid judgment of Hon'ble Supreme Court in *Asha Dubey's case (supra)* and therefore, there is no bar.

(ii) While referring to the contents of the affidavit, he submitted that all the allegations against the petitioner are vague and there are no specific allegations against the petitioner pertaining to dowry death, even though the death of his wife has taken place by hanging within 8 months of the marriage and the statutory presumption will have no role to play in view of the fact that there are no specific allegations against him.

(iii) He submitted that there are no earlier complaints by the complainant or the father of the complainant and rather the



deceased-wife had stayed back at her matrimonial home till her last day and had there been any dispute she would have left the matrimonial home and had stayed at the parental home.

(iv) He submitted that there are certain photographs which he has attached with the present petition to show that the couple was happy even a few days prior to her death.

(v) He submitted that even as per the allegations, it is not a case of dowry death but at the most it can be a case of suicide and for that purpose there is no abetment to commit suicide by the petitioner and therefore, no offence is made out qua the petitioner.

4. On the other hand, Mr. Gaurav Gurcharan Singh Rai, learned Senior Deputy Advocate General, Punjab has submitted that he has already received an advance copy of the present petition and he has also sought instructions. While opposing the grant of anticipatory bail, he submitted that the third successive bail petition filed by the petitioner is not maintainable because he had earlier withdrawn the first anticipatory bail because of the reason that he was a proclaimed offender and in the second anticipatory bail petition he stated before this Court that he wishes to surrender before the learned trial Court and therefore, had prayed for the withdrawal of the petition which was dismissed as withdrawn on 20.03.2025 vide Annexure P-11 and now after less than two months, he has again filed a petition before this Court which is a third successive bail petition by submitting that his third successive bail petition is maintainable and the same be adjudicated on merits which is not permissible under the law. He referred to a judgment of



Hon'ble Supreme Court in *G.R. Ananda Babu Versus The State of Tamil Nadu and another [2021(1) RCR (Criminal) 843]* to contend that successive bail petition in such circumstances would not be maintainable. He further submitted that even otherwise also as per the role of the petitioner and the allegations against the petitioner, the argument which has been raised by the learned counsel for the petitioner that the allegations were vague are not substantiated from the persual of the FIR itself. He submitted that direct role has been attributed to the petitioner who is the husband of the deceased and also submitted that death of a young bride has taken place within a period of 8 months of marriage and there are direct allegations pertaining to demand of dowry and harassment and therefore, there is a statutory presumption against the petitioner as well. He also submitted that the mere fact that the deceased was continuing to stay with her in-laws would not mean that she had condoned any allegations against the petitioner or that she was happily residing there.

5. Learned State counsel further submitted that the petitioner has been declared as a proclaimed offender on 25.11.2024 and right from the beginning, he has been on the run and there is no challenge to the order declaring him a proclaimed offender and he has been absconding. He submitted that anticipatory bail petition by a proclaimed offender is not maintainable. He also submitted that so far as the other co-accused are concerned, they were granted bail and qua them the investigation was completed and challan was presented and therefore, the petitioner is not entitled for the grant of anticipatory.

6. Mr. Parvez Akhtar, Advocate has appeared on behalf of the



complainant through video conferencing and he has also opposed the grant of anticipatory bail to the petitioner not only on the ground of maintainability but also on merits. He submitted that the daughter of the complainant, who is the wife of the petitioner was constantly being harassed for demand of dowry and she hanged herself only because of the same reason. He further submitted that the death of the daughter of the complainant has taken place within eight months of marriage.

7. I have heard the learned counsels for the parties.

8. The FIR which has attached by the petitioner alongwith the present petition as Annexure P-1 is reproduced as under:-

*“On the statement of Vandana Devi, wife of late Shammi Kumar, resident of Mohalla Bhathnidia near Dhob ghat Road, police station city-One, MALERKOTLA, aged about 48 years. Mobile number 9814365435. It is stated that I am resident of above said address and doing household work. I have a son Sumit and one daughter Sunaina, whose marriage was solemnised by us eight months ago, with Bharat Atwal @Jolly, son of Shoba Ram, resident of house number 66, Mohalla number 30, Jalandhar Cantt, with all rituals. In this marriage, we have spent around 20 to 22 lakhs. After about 2 1/2 months of marriage, the said husband Bharat Atwal@ Jolly and his family members had started harassing my daughter Sunaina, which my daughter Sunaina often used to tell me about this by talking on the mobile phone and said that her husband Bharat Atwal @Jolly used to tell her that you did not do this marriage according to our standard, and my daughter used to tell me that my husband used to told her that take me the car. My daughter Sunaina came to me about a month ago at*



*the said address, and stayed for a week and told me that my husband Jolly is having an illicit relationship with a girl named Japji Sukh. and on dated 13.05.2024, she also sent the photos of the girl from Jolly's mobile phone to my mobile phone whose screenshot will be given to you after taking its print out. my daughter used to tell me that his sister Sonia, and her uncle father-in-law's daughters, Manisha and monika are involved in the illegal activities of my husband, Jolly. The said Japji Sukh was used to bring by Sonia, Manisha and Monika to her in-laws house. The last night dated 9.07.2024, My daughter had called me many times and said that I am very upset as my husband Jolly, mother-in-law baby and her sister-in-law's Sonia, Monika, Manisha and father-in-law Shobha Ram are annoying her, and mentally harassing her. You just get me out of here, otherwise they will kill me. Today at about 10:30 AM, my son Sumit was called by Bharat Atwal Jolly, who has told him that Sunaina has hanged herself with a fan and who has been admitted in the hospital and doctors had put her on ventilator, and someone known to me from Jalandhar Cantt called me and told me that Sunaina had died. Now I have come to you along with my son Sumit to give you the information. My daughter Sunaina had finished her life because of the harassment caused by husband Bharat Atwal @Jolly, mother-in-law Baby, father-in-law Shobha Ram, sister-in-laws Sonia, Monika and Monisha and Japji Sukh. kindly take strict action against the above said persons. The statement was written and read and listened and which is correct. Sd/- Vandana Devi. Mob no 9814365435, Sumit mobile No.88474-04073.”*

9. It was an argument of the learned counsel for the petitioner that the present third successive anticipatory bail petition is maintainable in view



of the judgment passed by Hon'ble Supreme Court in *Asha Dubey's case (supra)*. However, it was the case of the learned State counsel that the same is not maintainable in view of another judgment of Hon'ble Supreme Court in *G.R. Ananda Babu's case (supra)*. A perusal of the aforesaid judgment passed by Hon'ble Supreme Court as so relied upon by the learned counsel for the petitioner in *Asha Dubey's case (supra)* would show that in that case, anticipatory bail was sought by the mother-in-law of the deceased and the son of the aforesaid appellant in the aforesaid case had already been arrested. Hon'ble Supreme Court in view of the facts and circumstances of the case was of the view that the custodial interrogation of the mother-in-law was not required, as per para No.7. Thereafter, it was so observed in para No.8 of the aforesaid judgment that it is not as if in all the cases there will be a total embargo on considering the application for grant of anticipatory bail and when liberty of an individual is pitted against, then the circumstances of the case, nature of the offence and background of proclamation has to be seen.

10. In the present case, the petitioner is the husband of the deceased and he was declared as a proclaimed offender on 25.11.2024 and he has not challenged the order vide which he was declared as a proclaimed offender but he is absconding from the date of registration of the present FIR. There is no doubt that an anticipatory bail, which is a successive anticipatory bail can always be entertained but the same has to be seen in the facts and circumstances of each and every case. In the present case, the petitioner had withdrawn the petition seeking anticipatory bail twice. Firstly, when he was apprised by the learned State counsel in the first anticipatory bail petition



that he has been declared as a proclaimed offender, he withdrew the petition and secondly, he expressed his desire to surrender before the learned trial Court and therefore, he again withdrew the petition. Both the aforesaid orders passed in both the earlier anticipatory bail petitions filed by the petitioner are attached alongwith the present petition as Annexure P-10 and Annexure P-11, respectively. Hon'ble Supreme Court in ***G.R. Ananda Babu's case (supra)*** observed that successive anticipatory bail application ought not to be entertained and more so, when the case diary and the status report clearly indicated that the accused is absconding and not cooperating with the investigation process. It was further observed that the specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge. No doubt the earlier orders i.e. Annexure P-10 and Annexure P-11 were not passed on merits but both the petitions were dismissed as withdrawn but the fact remains that the petitioner still is a proclaimed offender.

11. The arguments which have been raised by the learned counsel for the petitioner as aforesaid that there are vague allegations against the petitioner can be rejected on the basis of the perusal of the FIR only and rather direct allegations have been levelled against the petitioner and his family members with regard to harassment for dowry, wherein it has been so alleged that after the marriage, the deceased was told by the petitioner that her family members did not conduct the marriage according to their standard and also a demand for car was made. Not only demand as aforesaid was made but also deceased had also told her father, who is the complainant in



the present case that the petitioner was having an illicit relationship with another girl and further allegations were made pertaining to annoying, mentally harassing the deceased and wanting her to go out of the house otherwise she will be killed. Therefore, the argument raised by the learned counsel for the petitioner that there are vague allegations cannot sustain on the basis of the allegations made in the FIR.

12. A further argument was raised by the learned counsel for the petitioner that the deceased did not make any earlier complaint to the Panchayat is also not sustainable in view of the fact that earlier a complaint was not made by the deceased, if at all, that would not mean that the allegations are false. So far as the photographs which have been relied upon by the learned counsel for the petitioner are concerned, such photographs depicting happiness also cannot falsify the allegations in the FIR but it can be seen only at the time of trial by adducing evidence. So far as the argument raised by the learned counsel for the petitioner that it was not a dowry death but at the most a suicide is concerned, the same is also unsustainable in view of the aforesaid allegations made against the present petitioner and his family members.

13. The factual position with regard to the declaration of the petitioner being a proclaimed offender till date is uncontroverted. From the date of registration of the present FIR, the petitioner is stated to be absconding and he was declared as a proclaimed offender vide Annexure P-9 on 25.11.2024 which is almost six months ago. Earlier the petitioner withdrew the first anticipatory bail petition vide Annexure P-10 on the aforesaid ground of being declared as a proclaimed offender and for the second time he so stated



that he wishes to surrender before the learned trial Court and withdrew his second anticipatory bail petition vide Annexure P-11 and now he has filed the present third anticipatory bail petition again to be heard on merits. There is no doubt that for the purpose of considering the grant of anticipatory bail, the Court has to consider the liberty of an individual on the one hand and various factors with regard to the role of the accused and other relevant factors on the other hand.

14. Considering the aforesaid facts and circumstances of the present case, the role of the petitioner, statutory presumption, he being declared as a proclaimed offender and the fact that he earlier withdrew anticipatory bail petitions on two occasions as aforesaid and the nature and gravity of the offence involved, this Court is of the considered view that these relevant factors will outweigh the plea of liberty raised by the petitioner. Right to Liberty although is a Fundamental Right but it is not absolute in nature and is subject to exceptions and the present is a case which falls in the exceptions and therefore, the argument raised by the learned counsel for the petitioner pertaining to Right to Liberty is rejected.

15. Considering the aforesaid facts and circumstances of the present case and the fact that earlier by way of the aforesaid orders, the petitioner had withdrawn the first anticipatory bail petition on the ground that he was declared as a proclaimed offender and second time, he expressed to surrender before the learned trial Court and withdrew the petition but instead of surrendering, he has filed the present third successive anticipatory bail petition which of the considered opinion of this Court is an abuse of the process of law.



16. Consequently, the present petition is hereby dismissed with exemplary costs of Rs.50,000/- (Fifty Thousand). The petitioner is directed to deposit the aforesaid costs before the Court of learned Chief Judicial Magistrate, Jalandhar, within a period of three months from today. On his depositing the aforesaid costs, the learned Chief Judicial Magistrate, Jalandhar shall transmit the aforesaid amount to the District Legal Services Authority, Jalandhar. Learned Chief Judicial Magistrate, Jalandhar shall also ensure that the aforesaid costs are deposited by the petitioner within the aforesaid stipulated period and in case the same is not done, then learned Chief Judicial Magistrate, Jalandhar shall recover the same from the petitioner in accordance with law including recovery as arrears of land revenue etc.

17. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

15.05.2025

*rakesh*

**(JASGURPREET SINGH PURI)**

**JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No