

2025.PHHC.117181



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

**CRM-M-45944-2025
DECIDED ON:22.08.2025**

GAUTAM @ GOPPU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. M.S. Sachdev, Advocate
for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

This Petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of Anticipatory bail in FIR No.81 dated 19.06.2025 under Sections 115 (2), 118 (1), 351 (2), 333, 324 (4), 3 (5) of the Bharatiya Nyaya Sanhita, 2023, registered at P.S Division 5, District Police Commissionerate Jalandhar (Annexure P-1)

2. The contents of the FIR reads as under:-

'Statement of Gaurav Kumar, son of Shri Gulshan Kapoor, resident of H. No. 73. Uttam Singh Nagar Basti Sheikh, Jalandhar, approximately 40 years old, mobile number 7668000008. Stated that I am a resident of the aforementioned address and work in finance. On June 18,

2025, at around 10:00 PM, I went to a birthday party at Inderprasth Hotel, Jalandhar, with my friends, Vishnu, Gellu resident of Ujala Nagar, and Goppu, the grandson of the pehelwan pakora seller. We all drank alcohol together. When we were leaving the hotel to go home, Gellu started a fight with me. I then left for my home on my Activa, registration number PB-08-FP-6973. Gellu, Vishnu, and Goppu followed me on their Activa. When I reached my home in Uttam Nagar, opened the door, and went inside, Gellu, Vishnu, and Goppu arrived outside my house on their Activa and started calling me to come out. I called my friend, Tanish Babbar, son of Surinder Mohan, resident of WT-25 Kot Bazar Basti Sheikh, Jalandhar, from my mobile phone and asked him to come to my house. He arrived outside my house at about 2:15 AM on 19.06.2025. I also came out of my house and told Gellu, Vishnu, and Goppu that we would talk in the morning, but the three of them began arguing with me. Tanish Babbar tried to stop them, and Vishnu pulled a sickle from his waist and struck Tanish on the back of his head, causing him to fall. While Tanish was on the ground, he was struck with the sickle again. After that, Gellu took the sickle from Vishnu and also struck Tanish while he was down. Goppu then kicked Tanish in the stomach while he was lying there. When I tried to intervene and help, Vishnu struck me on my right hand and then my right ear with the sickle, causing injuries to my hand and ear. He then struck me a third time on the back of my head. I shouted for help, and seeing people gathering, the three individuals entered my house, vandalized my Activa, and then fled the scene. As they were leaving, they threatened to kill me. In the meantime, our neighbor's son, Amit, arrived. He arranged for transportation and got us admitted to Civil Hospital, Jalandhar. The doctors prepared our MLRS and referred us to Global Hospital, Jalandhar, where Tanish is currently undergoing treatment. My statement has been written, read, and heard, and is correct. Sd/- Gaurav (Mob No. 7568000008) Prem Pal ASI Police Station No. 5 Jalandhar, Dated 19.06.2025. Police Inquiry: Today, I, ASI Prem Pal, along with HC Rakesh Mohan, no. 3439, were present at the police station when a telephone call was received from Global Hospital, Jalandhar. The call reported that Tanish Babbar, son of Surinder Mohan,

resident of H. No. WT-25, Basti Sheikh Kot Bazar, Jalandhar, was admitted to the hospital and undergoing treatment for injuries from a beating. He requested that an investigating officer be sent to take action. I, ASI, along with my fellow officer, went to Global Hospital, Jalandhar. Before taking the statement of the Injured Tanish Babbar, I obtained a written opinion from the doctor. The doctor declared Tanish Babbar unfit to give a statement. A report, entry number 15, dated 19.06.2025, was recorded in the daily diary at the police station in this regard. I, ASI, along with my fellow officer, was present at the police station when Gaurav Kumar, son of Shri Gulshan Kapoor, resident of H. No. 73, Uttam Singh Nagar Basti Sheikh, Jalandhar, came to the police station. He presented MLR No. PR/335/2025 dated 19.06.2025 for Gaurav Kapoor and MLR No. PR/336/2025 dated 19.06.2025 for Tanish and provided his statement as written above. In MLR No. PR/335/2025 dated 19.06.2025 for Gaurav Kapoor, the doctor has recorded a total of 04 injuries. Injuries 1, 3, and 4 are described as sharp, and injury 2 is described as blunt. In MLR No. PR/336/2025 dated 19.06.2025 for Tanish, the doctor has recorded a total of 01 injury. This injury is described as blunt and "KUO" (Kept Under Observation). Further action will be taken based on the result of the KUO injury. For the time being, based on the above statement and the results of the MLRs, an offence under sections 115 (2), 118 (1), 351 (2), 333, 324 (4), and 3 (5) of the BNS is made out. This statement is being forwarded to the Head Constable for registration of a case. After the case is registered, the number of the same be informed. The SHO and higher authorities, as well as the police control room, are being informed. I, ASI, along with my fellow officers, am now leaving with the complainant to the scene of the crime. Sd/- Prem Pal, ASI. Police Station Division No. 5, Jalandhar, Dated 19.06.2025. Time: 7:35 PM. Today, at Police Station Division No. 5, Jalandhar, the above written First Information Report under the mentioned sections has been registered. The original written statement along with a copy of the FIR is being sent to ASI Prem Pal No. 877/Jalandhar through L/Ct Gurleen Kaur No. 638 for further investigation. The SHO, senior

officers, and the Police Control Room are being informed by telephone. Rapat No. 30, dated 19.06.2025.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He further contends that no specific act has been attributed to the petitioner on the complainant and no recovery is to be effected from him. It is argued by him that the instant FIR has been registered after more than 24 hours from the time of occurrence of the incident, therefore, prays for grant of anticipatory bail.

Notice of motion.

On behalf of the State/complainant

On asking of the Court, learned State Counsel accepts notice on behalf of the respondent/State and submits that the petitioner along with his friends had attributed injuries on the complainant and his friend namely Tanish Babbar wherein the petitioner has specifically kicked Tanish Babbar, complainant's friend, in the stomach while he had already been stuck by a sickle on the back of his head by the petitioner's companions and was profusely bleeding. On this ground he vehemently opposes the present petition and prays for its dismissal.

4. **Analysis**

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner.

From the assertions made by the Learned State counsel, it is further evident that the name of the petitioner is specifically named in the FIR and specific overt act has been attributed to him. The petitioner participated in the attack by kicking the victim in stomach, while he was already injured and in no position to defend himself, thereby the making the simple act of merely kicking even graver.

Moreover, it is settled proposition of law that power exercisable under Section 482 BNSS, 2023., is somewhat extraordinary in character and it is to be exercised in exceptional cases sparingly and with utmost caution. In State of *'Andhra Pradesh vs. Vimal Krishna Kundu, AIR 1997 SC 3589*, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in *Ram Govind Upadhyay versus Sudarshan Singh, (2002) 3 SCC 598*, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

5. Keeping in view the allegations, the petitioner is not found entitled to the discretionary equitable relief of the anticipatory bail, which is to be granted in exceptional circumstances and not in routine. It is meant to save the innocent persons from the harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation. Therefore, the petition being devoid of merits stand dismissed.

6. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

7. Ordered accordingly.

22.08.2025

sham

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*