



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

CRM-M-12650-2025

Date of decision: 06.03.2025

Kuldeep Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rajesh Tushar, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Senior DAG, Punjab.

RAJESH BHARDWAJ, J.

1. Petitioner has approached this Court praying for grant of anticipatory bail to him in case FIR No.42 dated 24.01.2025, under Sections 304, 324(5), 115(2), 126(2), 191(3), 190 of Bhartiya Nayaya Sanhita, 2023, registered at Police Station Zirakpur, District SAS Nagar, Punjab.

2. Succinctly facts of the case are that the FIR in the present case was lodged on the statement of Babu Ram son of Jaswan Singh. It has been alleged that on 23.01.2025, he along with his companions Rajiv Garg, Sukhminder Singh and DVR Happy were coming from Dhakoli to Zirakpur in their car make Bolero after calculating sale of liquor at shops at Dhakoli. At about 07:00 PM, when they reached behind the Gurudwara Sahib, Bisanpura, they were encircled by 10-15 persons, who were armed with sticks and swords and they attacked upon their car. One of accused Gulzar Singh attacked with stick on his car and broke down the back window of the car. Kuldeep Singh opened the door of the car and pulled them out. Thereafter, 7-8 persons attacked them. During the scuffle,



Gulzar Singh snatched away mobile phone of the complainant while Kuldeep Singh snatched his gold chain from his neck. Request was made to take the legal action against the culprits. On registration of the FIR, investigation commenced. Apprehending arrest, petitioner approached the Court of learned Additional Sessions Judge, SAS Nagar, Mohali praying for grant of anticipatory bail. However, after hearing both the sides, learned Additional Sessions Judge, SAS Nagar declined the same vide his order dated 27.02.2025. Hence, being aggrieved, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that the allegations levelled against the petitioner are totally based on presumptions and assumptions. He submits that co-accused Gulzar Singh, who is the father of the petitioner, has already been released on bail by the learned JMIC. It is submitted that petitioner is ready to join the investigation and hence, there being no *prima facie* case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the petitioner is not only specifically named in the FIR however, he has played an active role in beating the complainant and snatching his gold chain as well. It is submitted that the investigation is at the nascent stage and thus, granting anticipatory bail to the petitioner would scuttle the ongoing investigation. He thus, prayed for dismissal of the petition.



5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner has been specifically named in the FIR. Petitioner along with co-accused encircled the car of the complainant and the gold chain, mobile phone were snatched with the help of weapons they were holding. Thereafter, they were pulled out of the car and beaten up. The gold chain of the complainant had allegedly been snatched by the petitioner. Thus, it is apparent that there are specific allegations made against the petitioner.

6. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

When the High Court or the Court of Sessions makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;



(iv) such other condition as may be imposed under sub-section (3) of Section 480, as if the bail were granted under that Section.

7. As per the law settled by the Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632**, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the



applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

8. The Hon'ble Supreme Court in **State Vs. Anil Sharma, (1997) 7SCC 187**, held as under:-

6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere



ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

9. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that the custodial interrogation of the petitioner is very much essential to bring the truth on record and as such, petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

06.03.2025
m. sharma

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