



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

105

CRM-M-57743-2025

Date of decision: 15.10.2025

Divanshu Dhir

...Petitioner

V/s

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Anil Kumar Garg, Advocate for the petitioner.

Mr. Gurpartap S. Bhullar, AAG Punjab.

Mr. Naveen Sharma, Advocate for the complainant.

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**SUMEET GOEL, J. (Oral)**

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.118 dated 06.08.2025, registered for the offences punishable under Sections 109, 125, 285, 191(3), 190 of BNS, 2023 and Sections 25 and 27 of Arms Act, 1959, at Police Station Haibowal, District Ludhiana.

2. The gravamen of the FIR in question reflects that the FIR in question was registered upon receipt of secret information by the Investigating Officer regarding an exchange of gunfire between two rival groups. The first group comprised of Rupesh Vij, Gagan Vij, Akash, Abhay Rao, Hani, and 4-5 other unidentified individuals. The second group consists of Deepanshu Sahota, Divanshu @ Labhu, Kunal Sharma @ Kaiby, Lavnish Kumar @ Lav Bahri, Karnik Bhumbak, along with 5-6 other unknown persons. It has been alleged in the FIR that both the groups held a grudge against each other and engaged in cross-firing thereby endangering



the lives of the general public. The incident took place in a public area, disturbing the peace and creating panic among local residents. On these set of allegations, instant FIR under Sections 109 (307 IPC), 125 (336 IPC), 285 (283 IPC), 191(3) (148 IPC), 190 (149 IPC) of BNS, 2023 and Sections 25 & 27 of Arms Act, 1959 was registered against the petitioner and other accused persons.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further iterated that the police have named the petitioner without conducting any proper inquiry or verifying the fact. According to learned counsel, the impugned FIR is based on allegedly secret information and the name of the petitioner has been included illegally and arbitrarily. Learned counsel asserts that in the instant case, the FIR fails to include material facts, which further raised questions about its credibility and fairness. It has been further submitted that no recovery is to be effected from the petitioner and, thus, the custodial interrogation of the petitioner is not warranted. Furthermore, the petitioner is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. On strength of these submissions, the grant of anticipatory bail is entreated for.

4. *Per contra*, the learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the FIR has been registered after due verification and is based on credible information. According to learned State counsel, the name of the petitioner has been included as there is sufficient *prima facie* evidence to indicate his involvement in the alleged offence. It was contended that the petitioner was a member of one of the rival groups involved in the incident, both of which harboured animosity



towards each other and engaged in cross-firing in a public area, thereby endangering the lives of the general public. Learned State counsel has further submitted that the custodial interrogation of the petitioner is imperative for the purpose of effective and fair investigation. Furthermore, in case the petitioner is granted the concession of pre-arrest bail, at this stage, it may impede the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the dismissal of the instant petition.

5. Learned counsel for the complainant has raised submission in tandem with the submission made by the learned State counsel and has prayed for dismissal of the instant petition.

6. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

7. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

*“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information.*

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*75. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B.*** [***Adri****



*Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933], it was held as under : (SCC p. 313, para 19)*

*“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”*

76. In **SiddharamSatlingappaMhetre v. State of Maharashtra [SiddharamSatlingappaMhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514]**, the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to **SiddharamSatlingappaMhetre [SiddharamSatlingappaMhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514]** and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in **Jai Prakash Singh v. State of Bihar [Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468]**, the Supreme Court held as under : (SCC p. 386, para 19)



“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See **D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345]** , **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176]** and **Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1]** .)”

*Economic offences*

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In **Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510]**, it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In **Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1**, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

8. Indubitably, serious allegations have been levelled against the petitioner and he was specifically named in the FIR registered on the basis of secret information received by the police. During the course of



investigation, live as well as empty cartridges were recovered from the spot, clearly indicating that firing had indeed taken place. Additionally, a Scorpio vehicle bearing registration number PB-10JX-7072, along with a pistol, was also recovered during the investigation, which further corroborated the occurrence of firing in a public area. As per the stand of the investigating agency the investigation is still at a preliminary stage and custodial interrogation of the petitioner may be necessary especially in light of the fact that he has been specifically named in the FIR. Moreover, one of the co-accused, namely Rupesh Vij, sustained injuries during the incident, and his Medico-Legal Report (MLR) is available on the police file. There exists a strong *prima facie* case against the petitioner, who has been specifically named in the FIR. Learned counsel for the petitioner has failed to demonstrate that the case registered against him is false. It is also pertinent to mention that there is one more case/FIR registered against the petitioner under Sections 125, 121(1), 122 of BNS and Section 256 of the Arms Act and, thus, the petitioner is not a man with clean antecedents. No cause nay plausible cause has been shown, at this stage, from which it can be deciphered that the petitioner has been falsely implicated into the present FIR. It goes without saying that in the instant case, it was specifically alleged in the FIR that the petitioner along with other co-accused was a part of an unlawful assembly and involved in exchanging gunshots, thereby endangering the lives of the general public.

9. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to



the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It is imperative that every person in the Society can expect an atmosphere free from foreboding & fear of any transgression. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to be established a reasonable basis for the accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation. In **State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039]**, the Supreme Court held as under : (SCC p. 189, para 6)

*“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable 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 information 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.”*

10. In view of the gravity of the allegations as the petitioner was a member of rival group involving in exchange of gun-shots as also the necessity of custodial interrogation for a fair and thorough investigation, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand.



11. In view of the prevent rationation, it is ordained thus:
- (i) The instant petition is devoid of merits and is hereby dismissed.
  - (ii) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.
  - (iii) Pending application(s), if any, shall also stand disposed off.

**(SUMEET GOEL)**  
**JUDGE**

October 15, 2025

*Ajay*

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