



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

**CRM-M-13705-2025  
Date of decision: 11.03.2025**

**SUMIT KUMAR**

**...PETITIONER**

**V/S**

**STATE OF HARYANA**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ashish Grewal, Advocate  
for the petitioner.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. This is the second petition filed under Section 482 BNSS, 2023 seeking anticipatory bail to the petitioner in a case bearing FIR No.551 dated 26.11.2024 under Sections 61(2), 109(1), 115, 117(1), 190, 191(3), 333, 351(3) of BNS, 2023 registered at Police Station Sadar Yamuna Nagar (Annexure P-1). The first petition was dismissed as withdrawn on 20.02.2025.

2. The brief facts of the present case, as alleged are that on 23.11.2024, complainant-Mustkeem had an altercation with Kosar and Asif in respect of boundary of fields and they threatened to kill him. Thereafter, on 25.11.2024 at about 5.00 P.M., the complainant opened his shop and after about 15 minutes i.e. at about 5.15 P.M., a Swift car carrying five persons stopped in front of his shop, one person alighted therefrom and asked the complainant to prepare tea for them. When the complainant started preparing tea, the said person put a belt around his neck, from his back side and tried to strangle him. Four persons, who were sitting in the car, armed with sticks and iron rods, also came there with an intention to kill him and attacked upon



him and they inflicted injuries on his legs, head and arm; that when the complainant cried for help, passersby started gathering at the spot; that on seeing the passersby there, they all fled therefrom while threatening the complainant of being killed. Hence, the FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that neither the petitioner is named in the FIR (*supra*) nor has he been attributed any injury. He further contends that the petitioner has played no active role in the FIR (*supra*). He submits that co-accused of the petitioner, namely, Ashiq @ Asif Ali, Kosar Ali and Kasim Mohammad have been granted the concession of anticipatory bail by this Court in cases bearing **CRM-M No.6199 of 2025 (O & M)**, **CRM-M No.388 of 2025 (O & M)** and **CRM-M No.3590 of 2025 (O & M)** (Annexures P-3 to P-5) respectively, have been granted the concession of anticipatory bail vide order dated 20.02.2025 passed by this Court.

4. Notice of motion.

5. Ms. Geeta Sharma, DAG, Haryana, who is present in the Court, accepts notice on behalf of respondent-State and opposes the prayer made by the petitioner on the ground that this is the second petition seeking anticipatory bail to the petitioner. The first petition was dismissed as withdrawn on 20.02.2025 and without there being any change in circumstance, the present petition has been filed. She further contends that the petitioner is the main accused, who has hired co-accused for committing the murder of the complainant. Furthermore, the petitioner tried to strangle the complainant and he is involved in four more cases. She submits that during investigation, the call details of the petitioner were obtained and on analysis of the same, the complicity of the petitioner is duly proved. It is also proved that petitioner and



four other hired assailants were constantly in touch with each other, on the date of occurrence. She further submits that the call details collected during investigation, *prima facie* show the involvement of the petitioner in commission of the crime and the complainant has disclosed the identity of the petitioner during investigation regarding causing injuries to him. As such, his custodial interrogation is required.

6. Having heard learned counsel for the parties and after perusal of the record of the case with their able assistance, it transpires that this is the second petition filed by the petitioner, without there being any change in the circumstances and petitioner is involved in a heinous crime and has actively participated in giving injuries to the complainant. Further, his custodial interrogation is required in the present case. As such, this Court is not inclined to grant anticipatory bail to the petitioner.

7. The parameters for denying bail and cancelling the same are quite varied. Denial of bail is a matter of discretion and can be decided upon without inspecting the details of the matter. If the Court is of the opinion that the accused is likely to misuse the liberty granted to him, it can deny bail simply on the basis of gravity of the offence. However, cancellation would amount to curtailment of the liberty already granted to an undertrial accused, which cannot be embarked upon in a cursory fashion. Only if a grave error is highlighted in the order granted bail or it is evident that the accused is misusing the concession, can the Court consider cancellation.

8. The scope and power of the judicial review of an order granting bail has been illustrated by the Hon'ble Supreme Court in *Dolat Ram and others vs. State of Haryana (1995) 1 SCC 349*, as follows:-



*“(i) interference or attempt to interfere with the due course of administration of justice;*

*(ii) evasion or attempt to evade the due course of justice;*

*(iii) abuse of the concession granted to the accused in any manner;*

*(iv) possibility of the accused absconding;*

*(v) likelihood of/actual misuse of bail;*

*(vi) likelihood of the accused tampering with the evidence or threatening witnesses.”*

9. A three Judge Bench of the Hon’ble Supreme Court in ***Deepak Yadav vs. State of Uttar Pradesh and another (2022) 8 SCC 559***, speaking through Justice Krishna Murari, observed as follows:

*“33. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:*

*33.1. Where the Court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.*

*33.2. Where the Court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.*

*33.3. Where the past criminal record and conduct of the accused is completely ignored while granting bail.*

*33.4. Where bail has been granted on untenable grounds.*

*33.5. Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.*

*33.6. Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.*

*33.7. When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.”*

10. In view of the above discussion and keeping in view the nature of gravity of offence and the fact that the custodial interrogation of the petitioner



is required, no ground is made out to grant anticipatory bail to the petitioner and the present petition stands dismissed.

11. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

**March 11, 2025**  
*manisha*

**(HARPREET SINGH BRAR)**  
**JUDGE**

- |      |                           |        |
|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |