



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

102

CRM-M-18108-2025

SONU

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CRR-943-2025

SHIVA

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

Decided on: 28.04.2025

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Lalit Kumar Narang, Advocate,
for the petitioner (in both the cases).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

SANJAY VASHISTH, J.

1. Prayer in the petition (in CRM-M-18108-2025), filed under Section 482 of the BNSS, 2023 (earlier Section 438 Cr.P.C.), is for grant of anticipatory bail to the petitioner, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Sonu	0011	11.01.2025	109(1), 115, 118(1), 190, 191(3), 351(3) of BNS	Faridabad Old	Faridabad

2. On 02.04.2025, following order was passed in CRM-M-18108-2025:-



“Prayer in the petition (in CRM-M-18108-2025), filed under Section 482 of the BNSS, 2023 (earlier Section 438 Cr.P.C.), is for grant of anticipatory bail to the petitioner, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

<i>Name of Petitioner (s)</i>	<i>FIR No.</i>	<i>Date</i>	<i>Section(s)</i>	<i>Police Station</i>	<i>District</i>
<i>Sonu</i>	<i>0011</i>	<i>11.01.2025</i>	<i>109(1), 115, 118(1), 190, 191(3), 351(3) of BNS</i>	<i>Faridabad Old</i>	<i>Faridabad</i>

2. *Counsel for the petitioner argues that vide order dated 21.03.2025, Court of learned Addl. Sessions Judge, Faridabad, had recorded its observation that all the injuries suffered by the injured were declared simple in nature by the Doctor and injured – Amar had been discharged from the hospital on the same day. It was also observed that injured Amar is having criminal antecedents as he was already found involved in 08 criminal cases and thereupon, considering the age of the petitioner – Sonu as 23 years, both the accused had been granted ad-interim anticipatory bail by directing them to join investigation.*

3. *Counsel further submits that it is on 27.03.2025 when the investigating officer reported the Court that despite of joining of the investigation, weapons could not be recovered on account of non-cooperation of the accused, the plea for bail was declined.*

4. *Counsel for the petitioner also submits that the petitioner is ready to cooperate during the course of investigation. Investigating officer, in fact, has not stated the true facts rather he is pressurizing the petitioner to produce the weapons, once, the petitioner’s plea is that he has been falsely involved as an accused in the case, question cannot not arise of effecting any recovery of weapon.*

5. *Moreover, it should be upon the prosecution agency to procure the evidence against the petitioner and not to ask the accused himself to create evidence against himself.*

6. *The facts recorded in para-4 of the order dated 21.03.2025 are reproduced hereunder:-*

“4. The applicants are named in the FIR. One injury each is attributed to the applicants to the injured Amar on his leg with Axe. In the said incident, son of the complainant namely Amar received five injuries as per MLR. All the



injuries are declared as simple in nature by the doctor. Thus it is debatable whether the offence under section 109 BNS (Old section 307 IPC) is attracted or not. Injured Amar has already been discharged from the hospital on the same day. Surprisingly, his statement was recorded on 27.02.2025 i.e. after about one month and 17 days of the alleged incident, while statement of other eye witness namely Kuldeep was recorded on 10.03.2025. Injured Amar is having criminal antecedents as he is found involved in eight criminal cases. The applicant No.1 is only 22 years of age while the applicant No.2 Sonu is only 23 years of age. Thus, both are young persons. No other criminal background is reported against them. Applicants are ready to join the investigation and cooperate.”

7. *Notice of motion.*

8. *On advance notice, learned State counsel puts in appearance on behalf of the respondent – State, and seeks some time to respond to the submissions addressed by learned counsel opposite, after seeking instructions, and, in case of necessity, to file status report.*

9. *Adjourned to 21.04.2025.*

10. *In the meanwhile, the petitioner is directed to join the investigation as and when required to do so by the Investigating Agency. In the event of his arrest, the petitioner shall be released on ad-interim bail, subject to his furnishing bail bonds to the satisfaction of the Arresting Officer. The petitioner shall also be abide by all the conditions laid down under Section 482(2) of BNSS, 2023 (earlier Section 438(2) Cr.P.C.).*

11. *Besides, the petitioner would submit/surrender his passport before the Arresting Officer and an undertaking on oath that in case of leaving the Country, he would seek prior permission from the Investigating Agency/concerned Court.”*

3. On 05.04.2025, following order was passed in CRR-943-2025:-

“1. For filing, instant revision petition, counsel for the petitioner – Shiva, submits that order dated 27.03.2025, vide which the anticipatory bail of the petitioner has been cancelled, is based upon the wrong and incorrect facts. In fact, there being no material and despite of joining the investigation, the



interim bail granted to the petitioner by the Court below, has been cancelled.

2. Counsel also points out that from the observations made in paragraph No.4 of the order dated 21.03.2025, of Ld. ASJ, Faridabad, it is ample clear that invoking an offence u/s 109 of BNS, 2023, is debatable. Therefore, merely on the misstatement of the Investigating Officer, his right of bail could not be closed.

3. Further submits that Ld. Court below, could have afforded one more chance to join investigation, subject to certain terms & conditions, instead of cancelling the interim bail, counsel submits that even now also, petitioner is ready to re-join investigation. Accordingly, petitioner is directed to rejoin the investigation within a period of two weeks from today and than, be released on bail. For this purpose, no fresh bail/surety bonds are required to be furnished, if already not forfeited by State.

4. Notice of motion for 21.04.2025.

5. To be heard along with CRM-M-18108-2025.”

4. Learned counsel for the petitioner(s) contends that in compliance of the order dated 02.04.2025 (in CRM-M-18108-2025) and order dated 05.04.2025 (in CRR-943-2025) passed by this Court, the petitioners have joined the investigation, and has fully co-operated.

5. Learned State counsel has filed status report (in both the cases) in the Court today and the same are taken on record. He submits that although the petitioners have joined the investigation, they have not extended full cooperation during its course. It is specifically pointed out that the *kulhari* (axe), which is alleged to have been used in the commission of the crime, has not been recovered.

He further submits that, in light of this, disclosure statements of the accused have been recorded, wherein it has been stated that the weapon was thrown into the river. Consequently, an offence under Section 238 of BNS (Section 201 of the Indian Penal Code (IPC) has now been added, in addition to the previously invoked provisions.



CRM-M-18108-2025
AND CRR-943-2025

5

6. Heard learned counsel for the parties.
7. Regarding the submissions made by the learned State Counsel, this Court is of the view that, given prosecution's own position that the *kulhari* was thrown into the river, thereby consequences of this action and the authenticity of the fact disclosed by the accused will be determined during the course of the trial. However, in light of the fact that the investigation has been initiated and the reason for the non-recovery of the *kulhari* has been duly recorded by the prosecution, it is concluded that no useful purpose would be served by subjecting the petitioners to custodial interrogation.
8. Accordingly, both the present petitions are allowed and ad-interim order dated 02.04.2025 (in CRM-M-18108-2025) and order dated 05.04.2025 (in CRR-943-2025), passed by this Court are hereby made absolute.
- However, petitioners shall continue to join the investigation as and when required to do so and abide by all the terms and conditions laid down under Section 482(2) of BNSS, 2023.
9. Accordingly, petitions stand disposed of.
10. A photocopy of this order be placed on the file of other connected case.

(SANJAY VASHISTH)
JUDGE

28.04.2025
Lavisha

Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**