



CRM-M-39842-2025 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-36119-2025 in/&
CRM-M-39842-2025 (O&M)

Date of decision: 12.09.2025

Mahabir Singh

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gaurav Datta, Advocate for the petitioner.

Mr. Jaypreet Singh, DAG Punjab.

SUMEET GOEL, J.**CRM-36119-2025**

This is an application under Section 528 of BNSS, 2023 seeking permission to place on record the amended petition by amending the head note and the prayer clause of the petition.

For the reasons stated in application, same is allowed as prayed for, subject to all just exceptions. Registry to take the necessary steps accordingly.

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1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Sections 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'BNSS') in FIR No.82 dated 21.05.2025 registered for offences punishable under Sections 25 (6), (7), (8) and 54/59 of Arms Act and Section 336(3) of BNS, 2023 (Sections 111, 346, 303(2), 317 (2) and 61(2) of BNS added later on



vide GD No.36 dated 17.08.2025) at Police Station Khem Karan, District Tarn Taran.

2. The gravamen of the FIR pertains to an incident which occurred on 21.05.2025 when ASI Vinod Kumar, alongwith other police officials was on patrol duty, he received a reliable information that accused Jagmohan Singh alias Jaggu of village Kallas and Mahbir Singh of village Duhal Nau (petitioner herein) are having links with Pakistani smugglers. All these accused allegedly arrange illegal weapons from across the border and supply them in Tarn Taran and other parts of Punjab. The informer further stated that Jagmohan Singh was present in village Kallas with weapons and smuggling money. Acting on this information, ASI Vinod Kumar prepared a report under Sections 25(6)(7)(8)/54/59 of the Arms Act and directed registration of a case and proceeded with the team to raid the village and arrested the accused. Consequently, the instant FIR was registered and investigation ensued. During the course of investigation, accused Jagmohan Singh @ Jaggu was arrested and recovery of one 9MM pistol with cartridges; one 30 bore pistol with empty magazine and other arms were effected. Another co-accused Harpreet Singh @ Roda was also apprehended with arms and currency. Subsequently on the disclosure of Jagmohan Singh, one Lakhman Singh was also arrayed as an accused and recovery of a 9MM Glock pistol with magazines and cartridges was made.

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 neither any recovery has been effected from the petitioner nor his name was mentioned in the confessional statements of the co-accused. It is further iterated that the FIR is the result of village



rivalry regarding land demarcation and the complainant (a police official), who has since been suspended, has misused his official position to falsely implicate the petitioner. Learned counsel has further iterated that the only ground for nominating the petitioner is his relation as cousin of co-accused Jagmohan Singh. Learned counsel further asserts that nothing is to be recovered from the possession of the petitioner and thus, his custodial interrogation is neither warranted nor justified. It is next submitted by the learned counsel that the petitioner is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. On the basis of the aforementioned submissions, the grant of the instant petition is entreated for.

4. *Per contra*, learned State counsel (on the strength of advance notice) has opposed the grant of anticipatory bail to the petitioner by arguing that the allegations raised against the petitioner are serious in nature. He has iterated that the petitioner is involved in cross-border smuggling of arms with the assistance of Pakistani smugglers. He has further contended that the co-accused who have already been apprehended with sophisticated weapons and cash demonstrates the gravity of the offence. Furthermore, the petitioner is specifically named in the FIR and is alleged to be a part of the unlawful nexus. The investigation is still underway and custodial interrogation of the petitioner is essential to unearth the larger conspiracy, identify other members of the smuggling network as also for a fair and thorough investigation. He has further emphasized that releasing the petitioner on bail at this crucial stage may hamper 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 in order to facilitate effective investigation into the alleged offence.

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

6. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. The FIR, on the face of it, discloses grave allegations of smuggling of arms from across the international border. The recovery of multiple firearms and cartridges from co-accused during investigation lends credibility to the prosecution version and cannot be ignored at this stage. The role of the petitioner, as specifically recorded in the FIR, cannot be brushed aside as his name finds mentioned therein on the basis of secret and reliable information received by the investigating officer. The contention that the petitioner has been falsely implicated merely due to his relationship with the co-accused is a matter of defence which can only be examined during the course of trial and not at the stage of considering a plea for anticipatory bail. *Prima facie*, the allegations against the petitioner disclose his active involvement in the larger conspiracy of cross-border smuggling of arms.

7. Furthermore, the argument that the name of the petitioner did not find figure in the confessional statement of co-accused is of no avail, as at this stage the investigation is at a crucial stage. Considering the recovery of sophisticated arms and ammunition from the co-accused and the possibility of further recoveries, this Court of the considered view that the custodial interrogation of the petitioner may be necessary to unearth the broader conspiracy and identify further members of the smuggling network. 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 the gravity of the offence, its potential impact on public order and national security and the stage of investigation, all weigh against the grant of anticipatory bail. It is settled law that anticipatory bail is an extraordinary remedy and should not be granted unless exceptional/accenuating circumstances are shown, which are absent in the present case. The nomination of the petitioner is not based on mere suspicion but is supported by corroborative evidence.

8. The plea of the parity with the co-accused is misplaced as the grant of bail depends upon the role attributed to each individual. The petitioner is specifically named in the FIR. The fact that the co-accused has been granted the concession of regular bail cannot, by itself, entitle the petitioner to the same. The allegations in the FIR coupled with the investigation conducted so far, *prima facie* indicate the commission of a grave offence. It is well settled that the principle of parity is not absolute and cannot be applied mechanically in all circumstances. Each case must be evaluated on its own facts and the nature and role of each accused is to be independently assessed.

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. 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 establish 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 Hon'ble 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 task of disinterring offences would not conduct themselves as offenders.”

10. In view of the gravity of the offence coupled with the fact that the petitioner is specifically named in the FIR and is alleged to be part of unlawful nexus, pending recovery of the weapon(s) and the necessity of custodial interrogation for a fair and thorough investigation as also to identify other members of the smuggling network, 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 prevenient ratiocination, 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.



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(iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

September 12, 2025

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No