



CRM-M-32213-2025

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

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CRM-M-32213-2025

Date of decision: 03.07.2025

Kapil

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vibhor Bansal, Advocate for the petitioner.

Mr. Aashish Bishnoi, DAG Haryana.

Mr. KDS Hooda, Advocate for the complainant.

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.123 dated 28.03.2025, registered for the offences punishable under Sections 191(3), 190, 115(2), 351(3), 109(1), 61(2), 117 of BNS Act and Section 25-54-59 of the Arms Act, at Police Station City Palwal, District Palwal.

2. The gravamen of the FIR in question reflects that on 28.03.2025, ASI Subhash, while present at the police post, received an information from the Palwal control room regarding a violent altercation in the village Patli Khurd arising from a land dispute. Responding promptly, ASI Subhash, accompanied by other police personnel, proceeded to the location in a government vehicle. Upon arrival, both disputing parties were initially counselled and directed to appear at the police post with their land ownership documents. Later that day, further information was received indicating a renewed clash at the same location. The police team returned to

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the spot but found no individuals present. However, weapons including sticks, axes, and hammers allegedly used in the conflict were recovered and taken into custody under a recovery memo, and the process was video-graphed for the evidentiary purposes. Subsequently, the injured persons were located at General Hospital, Palwal, where the police collected the ruqqa and Medico Legal Reports (MLRs). The attending physician noted the absence of Laxman and Manoj and referred the injured Vipin, Rahul, and Vinod to a higher medical facility due to the serious nature of their injuries. The police then returned to the City Police Station, where complainant Lakhanpal submitted a written complaint against 18 named individuals and 30/40 unidentified persons, all residents or affiliates of village Patli Khurd. According to the complainant, villagers had been peacefully protesting on Shamlat Deh land (common village) over the wrongful registration of ownership by one R.C. Agarwal, as reflected in the revenue records. On 26.03.2025, Ashok (son of Raghuveer) allegedly attempted to plough the disputed land on behalf of the said R.C. Agarwal but was stopped by the protestors. On 28.03.2025 at around 11:30 AM, the said Ashok allegedly returned, accompanied by his family members and other hired outsiders which were armed with country made pistols, axes, hammers, sticks and iron rods. They reportedly attacked the protestors with the intent to kill and fired multiple rounds, including direct shots aimed at Vipin, Vinod and Rahul which narrowly missed. Several protestors, including Manoj, Vipin, Vinod and Rahul sustained grievous injuries and some managed to escape by climbing over walls. The assailants allegedly issued threats to end the protest and claimed that the aforesaid R.C. Agarwal had promised them a



portion of the land. The situation escalated to a violent and premeditated attack despite earlier instructions given by the SHO. The complainant further narrates that after a villager dialed emergency number 112, police arrived at the scene of occurrence, causing the assailants to flee. The injured were initially treated at GH Palwal, while some referred to advanced medical centers due to the severity of their injuries. The incident was corroborated by multiple eyewitnesses, including Krishna and Satish, and a request was made for the appropriate legal action against all the involved accused. On these set of allegations, instant FIR under Sections 190, 191(3), 115(2), 351(3), 109(1), 61(2) of the BNS, 2023 and Section 25 of Arms Act was registered and investigation ensued.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question as the petitioner was not present at the scene of occurrence on the date and time alleged. He was instead engaged in his lawful occupation as a shopkeeper in village Usphar, District Mathura (U.P.) situated approximately 100 kilometers away from the alleged place of incident. Learned counsel has further iterated that even the complainant is not an eyewitness to the alleged occurrence and the facts narrated in the complaint are based entirely on hearsay. It is further submitted that no specific or overt act has been attributed to the petitioner in the FIR. Moreover, the prosecution itself alleges that the incident was a result of a larger conspiracy orchestrated by one R.C. Aggarwal, yet conspicuously he has not been named or arrayed as an accused in the FIR. This omission calls into question the credibility and fairness of the entire investigation. According to learned counsel, the petitioner alongwith his



father, brother and other male family members, appears to have been systematically and vindictively targeted causing undue harassment. Learned counsel asserts that the petitioner has a clean antecedent with no prior accusations. Learned counsel asserts that the in the instant case, the FIR fails to include material facts regarding the conduct of the complainant party which further raised questions about its credibility and fairness. It is next submitted by the learned counsel that no recovery is to be effected from the petitioner or at his instance. Moreover, the custodial interrogation should not be used as a punitive measure and is justified only when absolutely necessary for the recovery of material evidence. Furthermore, the petitioner is ready to join the investigation and hence no useful purpose would be served by sending him behind the bars. It is lastly submitted by the learned counsel that the present petition be allowed and the petitioner be granted the concession of the anticipatory bail.

4. *Per contra*, learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. According to learned State counsel, there are five injured in the alleged occurrence and the grievous injury has been directly attributed to the present petitioner, who is alleged to have inflicted multiple blows with an iron rod on the head of the injured Vinod. Learned State counsel has iterated that the custodial interrogation of the petitioner is imperative for the purpose of effective and fair investigation, particularly in view of the recovery of the weapon of offence which is yet to be recovered from the petitioner. According to learned State counsel, in case the petitioner is granted the concession of pre-arrest, at this stage, it may impede



the ongoing investigation, obstruct recovery and adversely effect the efforts to apprehend the remaining co-accused.

5. Learned counsel for the complainant has vociferously opposed the grant of anticipatory bail to the petitioner by raising submission in tandem with the learned State counsel.

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 ***Siddharam Satlingappa Mhetre v. State of Maharashtra*** [***Siddharam Satlingappa Mhetre 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 ***Siddharam Satlingappa Mhetre*** [***Siddharam Satlingappa Mhetre 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 enroled 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. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. As per the version put forth by the prosecution, on 28.03.2025, the petitioner, alongwith co-accused, allegedly formed an unlawful assembly and armed with deadly weapons i.e. axes, hammers, sticks, and country-made firearms, launched a violent and premeditated assault on the complainant and other villagers. It is further alleged that during the course of this incident, firearms were discharged with the intent to cause harm and create panic among the protestors. The incident resulted in grievous injuries to four individuals,



namely Vipin, who sustained seven injuries; Vinod Kumar, who suffered six injuries, including a head injury allegedly inflicted by the present petitioner using an iron rod; Rahul, who sustained three injuries; and Manoj, who also received three injuries. The petitioner has been specifically named in the FIR, and the nature of the injuries attributed to him are serious and life-threatening, reflecting the severity of the alleged act. It has come on record that the 04 co-accused are currently in judicial custody, while the remaining accused are yet to be apprehended. The weapon allegedly used by the petitioner has not yet been recovered, and the investigating agency has sought the custodial interrogation of the petitioner for effective recovery, verification of facts, and to establish the broader conspiracy, if any, behind the occurrence. 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, the complainant has categorically stated that the petitioner along with co-accused and as part of an unlawful assembly, acted in furtherance of their common object to inflict multiple injuries upon the complainant party.

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* [*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 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.”

9.1. In view of the gravity of the allegations, the specific role attributed to the petitioner, the serious nature of injuries sustained by the victims, the pending recovery of the weapon, and 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 matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective



investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

10. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

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

(SUMEET GOEL)
JUDGE

July 03, 2025
Ajay

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