

2025:PHHC:076121



112

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

**CRM-M-32508-2025
DECIDED ON: 16.06.2025**

JOBAN SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Dolli Sharma, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.186 dated 14.09.2024 for the offences under Sections 109, 115(2), 118(1), 126(2), 191(3) and 190 of BNS, 2023 and Sections 25, 27, 54 and 59 of Arms Act, 1959, registered at Police Station Lopoke, District Amritsar (Rural) (Annexure P-1), in the interest of justice.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Statement of Babbu Singh son of Gurbachan Singh, who had alleged therein that his cousins Peter Bhatti and Sukhdev Singh resides in his neighbourhood and Subash son of Peter works in a private lab at his village and on 13.09.2024, at about 11:50 PM, he heard noises from

the Chowk of his village and he saw that his cousins Peter and Sukhdev Singh were encircled by Joban Singh armed with a pistol, Subeg armed with a pistol, Ajay armed with a datar, Mandeep Singh armed with a datar, Lucky, Jaspal Singh, Suba Singh all empty handed, Rahul armed with a datar, Rakesh armed with brickbat and Gurjit Singh armed with brickbats He further alleged Suba Singh raised a lalkara and Rahul caused injury on the right leg of Peter with a blow of a datar and Jaspal Masih caused injury on the head of Peter with a blow of brickbat and Peter fell down on the ground. He further alleged that in the meantime the Ajaypal caused injury on the right arm of Sukhdev Singh with a blow of a datar and when he tried to rescue his cousins, Joban fired a shot from his pistol and the bullet hit him on his right thigh and he fell down on the ground and at the same time Subeg Singh fired upon him, which hit on the right calf. Then they both fired upon me to threaten me and when their magazine got empty then above said lucky gave them more bullets from his pocket. The reason behind this fight is that Subhash son of Peter Masih used to set fire on the lab- waste due to which these people stopped him from doing the same. This is the reason they in connivance with each other beaten us with intention to kill us. When we raised hue & cry, then they ran away with their respected weapons. Correct Sd/- Babbu Singh”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is argued that the alleged incident took place around midnight, in conditions of darkness, making it highly improbable to accurately identify the person who allegedly fired the gunshot. Counsel further submits that the petitioner had previously objected to Subhash burning medical waste in the village, which had led to friction between them. This prior dispute, it is contended, has given rise to a motive

for the complainant, who is the uncle of Subhash, to falsely implicate the petitioner in the present matter out of personal enmity. It is further submitted that the petitioner is ready and willing to cooperate with the investigation and undertakes to join the same as and when directed by the investigating agency.

Notice of motion.

On behalf of respondent/State

On the asking of Court, Mr. Jasjit Singh Rattu, DAG Punjab accepts notice on behalf of the respondent-State. He prays for dismissal of the present petition stating that there is specific allegation against the petitioner that he fired a gun shot from his pistol, which hit on the right thigh of the complainant. The custodial interrogation of the petitioner is required to recover the weapon in the commissioning of offence.

4. Analysis

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

On perusal of the FIR, it is evident that there are specific and grave allegations levelled by the complainant against the petitioner that he along with the co-accused, formed part of an unlawful assembly equipped with deadly weapons such as datars and pistols, and launched a brutal assault on the victims Peter Masih, Babbu Singh, and Sukhdev Singh causing them serious injuries. The incident is alleged to have occurred during late night hours, and the nature of the assault, involving a group armed with lethal weapons, renders the offence highly serious.

Further the complainant has specifically named the petitioner that he was armed with a pistol and fired a shot which struck the complainant on his right thigh. This Court is of the view that custodial interrogation of the petitioner is required to recover the weapon used in the commissioning of offence.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the

order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNS is somewhat extraordinary in character and it is to be exercised in exceptional cases.

The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded 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 material 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 needs 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.”

In the light of above is discussions made hereinabove, this Court does not find any merits in the present petition. Hence, the same is dismissed.

However, it is made clear that the observations made in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

16.06.2025

Sham

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*