



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

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**CRM-M-32546-2025(O&M)  
Decided on: 24.07.2025**

**ABHISHEK ALIAS ABHI**

. . . Petitioner(s)

Versus

**STATE OF PUNJAB AND ANOTHER**

. . . Respondent(s)

**CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

PRESENT: Mr. Piyush Sharma, Advocate  
for the petitioner(s).

Ms. Aakanksha Gupta, AAG Punjab.

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**KIRTI SINGH, J. (Oral)**

Apprehending arrest in FIR No.93 dated 15.08.2024, under Sections 70(1) & 115(2) of BNS, 2023 and Section 6 of POCSO Act, registered at Police Station Arniwala, District Fazilka, the petitioner has preferred this petition under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of pre-arrest bail.

2. The contents of the aforesaid FIR are reproduced herein below:-

*“Statement of Pritam Singh son of Pallu Singh resident of Dhingra Colony Fazilka presently residing at Tahliwala Bodla District Fazilka aged about 45 years mobile no. xxxx. Stated that I am a resident of the above mentioned address and do labour work. My two daughters are married and the youngest one namely xxx aged about 13 years 2 months who studies in 9th class in Government Senior secondary School Tahliwala Bodla. On 12/08/2024 it was about 11:30 AM, my daughter had gone to petrol pump near to our village to get the petrol filled up but when my daughter did not come back home even after long time then we started finding her and went to petrol pump then a boy of our village namely Abhishek alias Abhi son of Khajan Chand Rai was seen coming in and out of the house situated near the petrol pump due to which I and my wife Swarna Rani became suspicious and we about to go inside the house then Abhishek ran away from his house and the spot when we checked the room constructed inside the house but the door was close and no one was present in the courtyard when we pushed the door then the door open and inside the room my daughter xxxx and Arsh son of Balwinder Singh resident of Tahliwala Bodla were present who ran away from the spot giving push to us, my daughter started crying loudly. There were some marks on the face of my daughter on asking her politely, my daughter disclosed that Arsh and Abhishek had met her at a little distance away from the petrol pump and allured her while talking and took her to the house of*



*Abhishek where both the boys had committed rape upon my daughter xxx. Thereafter on 13/08/2024 we got the medical of our daughter regarding rape conducted in Civil Hospital Fazilka where my daughter was under treatment. After discussing the matter with you we have been seeking time from you to get our statement recorded. Today you have again come to Civil Hospital and I have got my statement recorded to you in the presence of my wife Swarna Rani and daughter xxx. Action may kindly be taken against the said Arsh son of Kulwinder Singh and Abhishek alias Abhi son of Khajan Chand residents of Tahliwala Bodla. LTI Pritam Singh above said, verified statement SD/-”*

3. Learned counsel for the petitioner submits that the petitioner, a young man aged 21 years, has been falsely implicated in the present case on the basis of a complaint lodged by the father of the prosecutrix, alleging that the petitioner along with co-accused had committed rape upon his daughter. It is submitted that the allegations levelled in the FIR are not only exaggerated but also lack independent evidentiary support. Furthermore, the complainant and the victim both had refused to get their statements recorded before the Investigating Officer despite him visiting the Civil Hospital, Fazilka, where the victim was admitted on two occasions i.e. 13.08.2024 and 14.08.2024. Moreover, the essential ingredients of all the offences that the petitioner has been accused of committing, are lacking. It is submitted that the petitioner is a man of clean antecedents and is willing to co-operate in the investigation.

4. Status report dated 23.07.2025 has been filed by learned State counsel, in Court today, which is taken on record. Learned State counsel while relying upon the contents of said status report submits that the petitioner, along with co-accused, has been accused of committing the serious rape upon the prosecutrix, who was all of 13 years and 2 months old on the date of the alleged occurrence, as per the birth certificate and school records which show her date of birth to be 05.06.2011. Apart from the oral testimonies of the complainant and other witnesses, the factum of rape having been committed by the petitioner stands duly corroborated by the specific and detailed statement of the victim recorded under Section 183



BNSS on 12.08.2024, wherein she categorically stated that she had gone to refuel her *Activa* scooter from a nearby petrol pump, when two boys from her village namely, Arsh and Abhi (present petitioner) approached her and requested her to speak with them. Thereafter, Abhi forcibly took the key of the *Activa* from her, and both accused took her to Abhi's house. There, Arsh struck her on the cheek with an object, following which both accused persons committed rape upon her, one after the other. Subsequently, parents of the victim reached the spot, on seeing who, both accused fled the scene. The victim was thereafter taken by her parents to the hospital, where she was admitted for medical treatment. It is further submitted that the victim was admitted to the Civil Hospital, Fazilka on 13.08.2024, where she remained admitted from 13.08.2024 to 17.08.2024 and underwent medical treatment. As per the Medico-Legal Report (MLR) prepared by the examining doctors at Civil Hospital, Fazilka, the following injuries were noted on the person of the victim:

1. Bruise present on the left eye.
2. Bruise present on the left side of the cheek.

It is submitted that the FSL report in the case is awaited. In view of serious allegations levelled against the petitioner, he does not deserve the concession of anticipatory bail.

5. Heard the rival submissions made by learned counsel.
6. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under*



*Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”*

7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, Courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. The general rule, put tersely, may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused fleeing, intimidating witnesses or tampering with the evidence, inter alia, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.



9. *Prima facie*, there are serious allegations against the petitioner of having committed rape upon the prosecutrix in connivance with the co-accused. The said allegation stands corroborated by the statement of the prosecutrix recorded under Section 183 of the BNSS. The MLR of the victim discloses the presence of injuries on her left eye and the left side of her cheek on her person. The FSL report is pending in this case. Under such circumstances, this Court is not inclined to grant the discretionary relief of anticipatory bail to the petitioner in the present case, wherein custodial interrogation of the petitioner might be required to unearth the true dimension of the alleged occurrence.

10. In the light of the foregoing discussion, the instant petition stands dismissed.

11. Pending miscellaneous application(s), if any, also stands disposed of.

**(KIRTI SINGH)**  
**JUDGE**

**24.07.2025**

*Kavita*

*Whether speaking/reasoned:* Yes/No  
*Whether Reportable:* Yes/No