

215

2025:PHHC:097448



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

**CRM-M-32719-2025 (O&M)
DECIDED ON: 03.07.2025**

GURMEET SINGH SAROYA ALIAS GOPPY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjay Gupta, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab

Mr. Gurpreet Singh and Mr. S.K. Kanojia, Advocates
for the complainant

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under section 482 of BNSS for grant of anticipatory bail in case FIR No 59 dated 29.5.2025 registered under sections 109, 49, 351(2) BNS (erstwhile Section's 307, 109, 506 IPC) registered in Police Station Chabbewal, District Hoshiarpur and subsequently added Section 25/27-54-59 of the Arms Act in the interest of justice.

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

“Statement of Sukhwant Singh S/O Late Sadhu Singh resident of Bohan Police Station Chabbewal aged about 55 years M84271-66084 stated that I am a resident of the above address

and do agricultural work. We are four brothers. Today i.e on 29/5/2025 at about 7:00 o' clock I after crossing my house in my car model i20 No PB07-AM-6515 was standing on pucca road and waiting for computer kara Tractor. Then my brother Bawa Singh's son Gurpreet Singh alias Goppi and his brother-in-law Avinash, resident of Droli Khurd, came towards me and Gurpreet Singh son of Bawa Singh resident of Bohan, first fired a shot on me with his pistol. I got out of my car and ran towards the Pucca street. The shot hit on the back side of driver's side of my car. Then Gurpreet Singh alias Goppi came behind me and fired about 4 shots at me in the street. I then. took out my service pistol from my pocket to save my life and ran after them, but they went ahead of me and ran away on scooty of JE of village Satbir Singh son of Ajit Singh resident of Bohan and took away the scooty also. Gurpreet Singh alias Goppi and his brother-In-law Avinash in conspiracy with intention of killing me fired a shot from his pistol. This occurrence happened at the instance of Harjit Singh alias Goni, with whom our land dispute case is going on, and Hardeep Singh Longia resident of Bohan. Earlier also I have received various threats of life from them. Legal action should be taken against them. SD/- Sukhwant Singh attested by Daljit Kumar ASI 927 PHG PS Chabbewal dated 29/5/2025”

3. **Contention**

On behalf of the petitioner

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of the complainant's statement. It is submitted that its a case of no injury. He further submits that the petitioner is the real nephew of the complainant, and there exists long-standing enmity between the two families. He asserts that multiple cases have previously been registered against the complainant on the complaint of the father of the petitioner.

It is further argued that on 24.05.2025, the complainant, along with other assailants, allegedly caused grievous injuries to Bawa Singh, the father of the petitioner, who is still undergoing medical treatment. In this regard, an FIR has already been registered by the police against the complainant. Moreover, the alleged weapon belonging to the petitioner is duly licensed, and no recovery is required from him that would necessitate custodial interrogation.

On behalf of the State

The learned State counsel, assisted by the learned counsel for the complainant, has opposed the present petition and prayed for its dismissal on the ground that the petitioner was allegedly armed with a pistol and fired a gunshot at Sukhwant Singh. It is further submitted that when Sukhwant Singh attempted to flee to save his life, the petitioner fired four additional gunshots at him. The counsel contends that the firearm used in the commission of the offence has not yet been recovered from the petitioner, and as such, his custodial interrogation is necessary for the recovery of the weapon and for proper investigation

4. Analysis

In the present case, allegations made in the FIR, supported by the statement of the complainant and the gravity of the offence wherein the petitioner Gurpreet Singh @ Gopi is alleged to have fired multiple gunshots with an intention to kill. The use of a firearm in a public place not only endangered the life of the complainant but also posed a threat to public safety. The existence of prior enmity between the parties, while lending a potential defence of false implication, also substantiates a motive for the

alleged act of violence, thereby strengthening the prosecution's case at this stage.

Also this Court would opine that 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.

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 BNSS, 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.”

5. Decision

Keeping in view the fact that the weapon used in the commissioning of offence is yet to be recovered and the custodial interrogation of the petitioner is considered necessary by the Investigating Officer further supports the view that the investigation is still at a nascent stage and must proceed unhindered. Granting anticipatory bail to the petitioner at this stage is likely to hamper the ongoing investigation and may adversely affect the recovery process and examination of material witnesses, this Court is of the view that his custodial interrogation is required for the purpose of recovery of weapons and to further unearth the ramifications involved in the present case.

Hence, the present petition is hereby dismissed.

However, it is made clear that the observations 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

03.07.2025
Meenu

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