



203

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

CRM-M-1914-2025 (O&M)

Date of Decision: 21.03.2025

Rakesh Kumar

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. M.S. Sachdev, Advocate, for the petitioner.

Mr. P.S. Bhandari, AAG. Punjab.

JASGURPREET SINGH PURI, J. (Oral)

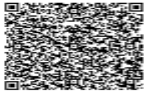
1. The present petition has been filed under Section 482 of BNSS for grant of anticipatory bail to the petitioner in FIR No.105 dated 23.10.2024, under Sections 115(2), 126(2), 3(5), 351 (3) and 85 of BNS (Sections 117(2), 109(2) of BNS added later on), registered at Police Station Division No.2, District Jalandhar.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been falsely implicated in the present case at the instance of his wife who is the complainant by alleging that he has caused grievous injuries upon her. While referring to the FIR, he submitted that the marriage between the petitioner and the complainant-wife took place in the year 2002 and thereafter i.e. in the year 2007 a matrimonial dispute arose between the parties and an FIR under Sections 406 and 498-A IPC was lodged against the petitioner in which the petitioner was convicted by learned trial Court. However, later on a compromise took place between the



parties and at the appellate stage on the basis of compromise, the petitioner was acquitted. He submitted that now again the present FIR has been lodged by alleging that the petitioner grabbed her by her hair and slammed her face against the wall and caused severe injuries to her and allegations were also made against the relatives of the petitioner. He submitted that the allegations against the petitioner were false because although injuries were there as per the medical record (Annexure R-1) but the injuries so suffered by the complainant-wife if at all were self inflicted injuries because she herself had hit her face against the wall and after hitting herself against the wall, she got the present FIR lodged to harass the petitioner. He further submitted that the complainant-wife is hysterical and suffers from fits. He also submitted that the relative of the complainant-wife is posted in police and at his behest, the FIR was lodged and therefore, the petitioner may be considered for the grant of anticipatory bail.

3. On the other hand, Mr. P.S. Bhandari, learned AAG. Punjab while referring to the affidavit filed by the State has submitted that it is a case where earlier also there was a matrimonial dispute between the parties and as a result of the same, the petitioner was convicted by the learned trial Court and thereafter, a compromise took place between the parties and the petitioner was acquitted based upon compromise at the appellate stage. He while referring to the medical of the complainant-wife submitted that the grievous injuries were suffered by her which is so clear from the main report of the hospital and submitted that the allegations which have been made by the petitioner that the injuries were self inflicted injuries cannot be presumed to be so on the basis of the nature of the injuries so suffered by the complainant-wife and even otherwise also that can be seen only at the time

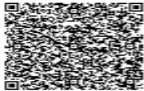


of trial by adducing evidence but it was a case where the allegations were that the petitioner grabbed the complainant and slammed her face against the wall and she suffered grievous injuries. After the registration of the FIR, rather on the basis of the supplementary statement made by the complainant-wife, the provisions of Section 109(2) of BNS have also been added. He also submitted that although there was no delay in the lodging of the FIR but the FIR was got lodged after the complainant gained consciousness and considering the gravity of the offence involved, the custodial interrogation of the petitioner is required for the purpose of elicitation of truth and therefore, the present petition may be dismissed.

4. I have heard the learned counsel for the parties.

5. It is a case where as per both the learned counsels for the parties, although the marriage between the petitioner and the complainant took place more than 20 years ago but at an earlier point of time in the year 2007, the petitioner was convicted for the offence under Sections 498-A and 406 IPC but at the appellate stage due to compromise, the petitioner was acquitted. Now the present FIR has been lodged by alleging that the petitioner had been harassing the complainant and the petitioner alongwith the other co-accused grabbed her by her hair and slammed her face against the wall and punched on her face and head. Allegations of beatings have even been made against the relatives of the petitioner as well. The medical of the complainant-wife has already been placed on record by the respondent-State which shows the following injuries:-

Sr. No.	Injuries	Marked	Injury Number
1	Superficial Laceration on tip of nose (1 cm x 0.3 cm x 0.3 cm)	Yes	2



2.	Localised swelling with bruise on left side of forehead on above medial 1/2rd part of left eyebrow.	Yes	3
3.	Swelling and tenderness on right cheek area 1.5x 1.5 cm.	Yes	4
4.	Superficial laceration on left side of forehead supero lateral to the left eyebrow (1 cm x 0.4 cm x 0.4 cm.	Yes	5
5.	Localised swelling on right temporo parietal area size about 1 cmx 1 cm	Yes	6
6.	C/o Pain on right shoulder, movement painful, no mark of any injury.	Yes	7
7.	Diffuse swelling and tenderness on root of nose. Adv ENT Opinion and X Ray with Radiologist Opinion	Yes	1

6. An argument was raised by learned counsel for the petitioner that the injuries suffered by the complainant-wife were self inflicted injuries and she also suffered from hysteria but there is no record of any medical evidence which has been placed on record by the petitioner to show that she was suffering from any such aforesaid medical ailment pertaining to the aforesaid ailment, if any. The fact remains that the petitioner earlier stood convicted on the basis of alleged beatings and as a consequence of the same, an FIR under Sections 406 and 498-A IPC was registered against the petitioner, as per the learned counsels for the parties but he was acquitted at the appellate stage due to compromise. Another fact which has come on the record was pertaining to the injuries which were sustained by the complainant-wife. This Court at this stage cannot go into the fact as to whether the injuries were self-inflicted injuries or not. However, considering the gravity of the offence concerned and the fact that there has been repetition of offence by the petitioner after he was initially convicted as aforesaid, the argument which has been raised by learned State counsel



while opposing the grant of anticipatory bail that considering the gravity and seriousness of the offence, the custodial interrogation of the petitioner is required for the purpose of elicitation of truth cannot be ignored and carries weight.

7. Hon'ble Supreme Court in ***State represented by the CBI Versus Anil Sharma, 1997(2) SCC 187*** observed that although Right to Liberty is an integral part of Right to Life under Article 21 of the Constitution of India but at the same time, the police also requires the petitioner for custodial interrogation for the purpose of elicitation of truth. The relevant portion of the aforesaid judgment is reproduced as under:-

“4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation orientated 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 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 would not conduct themselves as offenders.

8. Considering the aforesaid facts and circumstances, this Court is of the view that considering the aforesaid gravity of the offence, the



petitioner does not deserve the concession of anticipatory bail.

9. Consequently, the present petition is dismissed.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

21.03.2025

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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