

2025:PHHC:007361



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

110

CRM-M No.2257 of 2025 (O&M)
Date of decision: 16.01.2025

Shakshi Devi ... Petitioner
Vs.
State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

Mr. Apoorv Garg, Sr. DAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
786	13.12.2024	Krishna Gate, Thanesar, District Kurukshetra	109 (1), 115, 118 (1), 190, 191 (2), 3 (5) and 351 (3) of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”)

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of statement recorded by the complainant Rohtash on 13.12.2024

2025:PHHC:007361



alleging that on the same evening, he along with his friends Jasbir Singh and Pardeep were passing through street in front of house of Pankaj. A brick was thrown from the roof of the house. They found 2-3 youths while standing on the roof of the house making lalkaras by shouting “Maro Maro”. Feeling perplexed, they started running and Jasbir Singh fell in front of house of Pankaj. Within his sight, the petitioner who is wife of accused Pankaj, accused Pankaj, co-accused Kaku, Tarun and Abhi and one unknown person reached there. They were armed with dandas and gandasi and they opened an assault upon Jasbir Singh by extending beatings to him and causing injuries with the respective weapons which they were holding in their hands while proclaiming that he should not be left alive and should be beaten up till he died. The complainant and Pardeep who had hidden themselves at some distance could not come out due to fear and sometime thereafter they left the spot. The motive that was attributed to accused Pankaj was that he was having previous enmity with the victim Jasbir Singh. The victim was rushed to the hospital. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending her arrest, the petitioner moved an application for grant of pre arrest bail which has been dismissed by the Court of learned Additional Sessions Judge, Kurukshetra vide order dated 27.12.2024.

3. It is argued by learned counsel for the petitioner that she has

2025:PHHC:007361



been falsely implicated in this case. Infact, the members of the complainant party were the aggressors in this case. They had opened an attack upon the house of the petitioner on that day as well as previously. The victim, complainant and others were unscrupulous elements who had been opening attacks upon her house and had done so as on 25.09.2024, 21.11.2024, 07.12.2024 and 13.12.2024.

4. It is further submitted that as on 13.12.2024, the victim along with the complainant and Pardeep had reached outside the house of the petitioner while being armed with deadly weapons with a prearranged plan to inflict harm to the co-accused and herself and had damaged the main gate of their house by using hockeys/dandas. Thereafter, they had fled away. The victim was carrying a pistol which had fallen on the ground but was picked up by his companions. On opening the gate, it was found by the petitioner that the companions of Jasbir Singh were going to help him and thereafter in exercise of right of their private defence, the petitioner and her companions had resisted and confronted with the aggressors. It is argued that the injuries if any sustained by the victim at the hands of the petitioner and co-accused were in exercise of right of private defence which was at stake at the hands of the complainant, victim and their third companion. It is further submitted that her custodial interrogation is not required. She is ready to join the investigation and to abide by the terms and conditions to be imposed upon her. No recovery is

2025:PHHC:007361



to be effected from her. Therefore, it is urged that she deserves to be extended benefit of pre arrest bail. In support of his arguments, learned counsel for the petitioner has placed on record a pen drive containing CCTV camera footages of the incident which had taken place on the date of occurrence and has also placed on record photographs taken from the CCTV camera as on 25.09.2024, 21.11.2024, 07.12.2024 as well as on the fateful day.

5. Learned Senior Deputy Advocate General, Haryana who has advance notice of the case and is ready to argue, has submitted that there are serious allegations against the petitioner who by forming membership of an unlawful assembly with the co-accused, had opened an attack upon the victim Jasbir Singh on 13.12.2024 and had caused serious injuries to him. These injuries have been declared to be dangerous to life. The custodial interrogation of the petitioner is must for conducting thorough investigation in the matter. No extraordinary and sparing circumstance warranting extension of benefit of pre arrest bail has been made out in favour of the present petitioner who as per the CCTV footage relied upon by herself, is shown to have been causing brutal injuries on the person of the victim Jasbir Singh. Rather it is revealed from the CCTV footage that she was the person who had most actively participated in the commission of offence of causing injuries to the victim. It is, therefore, argued that the petition does not deserve to be allowed.

2025:PHHC:007361



6. I have heard learned counsel for the petitioner as well as learned Senior Deputy Advocate General, Haryana and have watched the video recording as shown in the pendrive placed on record by the petitioner.

7. As per the allegations, the petitioner by forming an unlawful assembly with the co-accused had opened a murderous assault upon the victim Jasbir Singh on 13.12.2024 while he had fallen down on the ground in front of house of co-accused Pankaj and the petitioner and had caused several simple as well as grievous injuries on his person some of which have been opined to be dangerous to life. The authenticity of the CCTV footage recording as contained in the pendrive has not been disputed by both the sides at this stage and on a perusal of the same, it is revealed that the victim Jasbir Singh along with his companions had come outside the house of accused Pankaj wherein he is stated to have been residing with the petitioner on 25.09.2024, 21.11.2024, 07.12.2024 and 13.12.2024. These footages show the victim and his companions to be throwing stones and then damaging the main gate of the house of accused Pankaj with the help of dandas/hockeyes. One of them is even shown to be containing some firearm on 13.12.2024. It is revealed that on 13.12.2024 when after damaging the main gate of the house of the petitioner and co-accused Pankaj etc., the victim along with his companions i.e. the complainant and Pardeep had been fleeing, he had

2025:PHHC:007361



fallen down. This video further shows the victim being encircled by the present petitioner and other co-accused and being assaulted with the help of rods/planks. He is shown to be lying unconscious on the ground. It is further shown from this video that the petitioner while carrying a plank struck blows with the same repeatedly on the victim while he was lying unconscious. The victim might have intimidated the petitioner and her family members by damaging the gate of her house and extending threats. However, it is a question of debate as to whether the members of complainant party were the aggressors. It is also to be taken into consideration during trial that the act committed by the petitioner was in exercise of right of private defence or she along with the co-accused exceeded such right. The victim had sustained serious injuries. The petitioner is shown to be actively participating in attribution thereof rather in a brutal manner. The powers of anticipatory bail are extraordinary and the same are to be exercised sparingly and in exceptional circumstances. It is well settled that discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant's fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail since grant of same as such to some extent interferes in the sphere of investigation of an offence. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal

2025:PHHC:007361



procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. For conducting thorough investigation of matter, the custodial interrogation of petitioner is must. More so, keeping in view the gravity thereof, the role attributed to the petitioner, the likelihood of her influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

8. Miscellaneous application(s), if any, also stand disposed of.

16.01.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No