



102

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

**CRM-M No.3574 of 2025
Date of Decision: 23.01.2025**

Akash**..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Anoop Singla, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.0242, dated 15.11.2024, under Sections 115(2), 333, 109 of BNS, 2023 (Earlier Sections 307, 452, 324 of IPC and Sections 25, 27 of Arms Act), registered at Police Station City Moga, District Moga.

2. Succinctly the facts of the case are that FIR in the present case was registered on the statement of complainant, namely, Sonu @ Mogli. It was alleged that on 13.11.2024 at about 11.30 p.m., he along with his family members was sleeping after having the dinner, then 3-4 vehicles wherein Virender, Sikander, Jagdev Singh @ Joga, Dev, Sunil @ Baba, Sunny Data @ Manjeet Singh, Bishu, Anmol, Akash and others



alightened, who were duly armed with pistols and rods. Virender fired a shot from his pistol towards him. Anmol gave rod blow on him. He and his brother, namely, Brijesh fell down and then Sikander, Jagdev Singh @ Joga, Sunil @ Baba and Akash fired shots upon them with their pistols with intention to kill them. On raising the alarm, the accused fled away from there in their vehicles along with the weapons. They were admitted in the Civil Hospital, Moga from where they were referred to Guru Gobind Singh Medical College and Hospital, Faridkot. The request was made to take the legal action against all the accused. On registration of the FIR, the investigation commenced. Apprehending his arrest, the petitioner has approached the Court of learned Additional Sessions Judge, Moga praying for the grant of anticipatory bail, however after hearing both the sides, the same was declined by the learned Additional Sessions Judge, Moga vide order dated 09.12.2024. Hence the petitioner is before this Court praying for the grant of anticipatory bail by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He has submitted that FIR in the present case has been lodged after an unexplained delay of 04 days. He has submitted that though the petitioner has been alleged to have fired at the complainant but it has caused no injury to the complainant. He has submitted that the allegations have been made against the petitioner with ulterior motive. He has further submitted that though the petitioner is involved in other



cases as well, however he is on bail in all those cases. He has submitted that co-accused, namely, Hardev Singh @ Dev Singh has already been granted interim bail by this Court vide order dated 15.01.2025. He has submitted that no *prima facie* case is made out against the petitioner and thus he deserves to be granted anticipatory bail.

4. Learned counsel for the State however has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner is a habitual offender. He has submitted that the petitioner has specifically named in the FIR, who has caused fire armed injury to the complainant and his brother. He has submitted that the investigation is at threshold and hence no ground is made out to grant anticipatory bail to the petitioner at this stage and thus the present petition deserves to be dismissed.

5. The Court has heard learned counsel for the parties and perused the record with their able assistance.

6. It is deciphered that the petitioner has been specifically named in the FIR, who was armed with a pistol. He had allegedly fired at the complainant and inflicted fire arm injury to him and his brother. Needless to say, the petitioner was alleged to be armed with a pistol and caused the fire arm injury to the complainant and his brother. Role of co-accused, namely, Hardev Singh, who has been granted interim bail by this Court vide order dated 15.01.2025, is not at par with that of the petitioner. The investigation is at threshold.



7. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

1. *When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
2. *When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
 - (i) *a condition that the person shall make himself available for interrogation by a police officer as and when required;*
 - (ii) *a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
 - (iii) *a condition that the person shall not leave India without the previous permission of the Court;*
 - (iv) *such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”*

8. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the



society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498*



which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

9. The Hon'ble Supreme Court in ***State Vs. Anil Sharma, (1997) 7SCC 187***, held as under:-

“6. *We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable 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 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 offences would not conduct themselves as offenders.”

10. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Needless to say, the investigation is at threshold and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

11. In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

23.01.2025

rittu

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

(RAJESH BHARDWAJ)
JUDGE