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

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CRM-M-6415-2025 (O&M)

Date of decision: 04.02.2025

Malkit Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ramandeep Singh Gill, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), the petitioner seeks anticipatory bail in case bearing FIR No.90, dated 13.07.2024, registered under Sections 333, 118(1), 118(2), 115(2), 190, 191(3), 331(8), 324 and 189(6) of Bharatiya Nayaya Sanhita, 2023 at Police Station Goraya, District Jalandhar.

2. Brief facts of the case relevant for the disposal of the present petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant-Harjit Kumar @ Jita alleging therein that he used to take care of agricultural work of Atinder Pal Singh and was living in the house of the former. On 12.07.2024, he along with Davinder

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Singh and Harnam Singh, who are friends of Atinder Pal Singh, was present in the abovesaid house when someone knocked at the door. He found that 10-15 persons armed with *kirpans* (swords) were present outside. They broke open the gate of the house and entered therein. On seeing them, Davinder Singh and Harnam Singh fled away. Co-accused Gurpreet Singh was holding an iron rod and petitioner Malkit Singh, who was holding a sword, opened an attack upon him by striking blows with their respective weapons. He raised alarm, on hearing which the neighbourers reached there and in the meanwhile, Atinder Pal Singh also reached at the spot. On seeing them, the assailants fled away. The motive as attributed by him was that a dispute was going on between co-accused Gurpreet Singh and Atinder Pal Singh with regard to the abovementioned house, due to which, the above said assault was opened on the complainant. After registration of the FIR, investigation proceedings were initiated. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Jalandhar but the same had been dismissed, vide order dated 17.01.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. In fact, Atinder Pal Singh is fiancé of daughter of one Shamsheer Singh, who owned the abovementioned house and who had executed a transfer deed in respect of this property in favour of his son. His son had executed a General Power of Attorney in favour of one Desraj who sold the above mentioned house in favour of co-accused Gurpreet Singh by executing a registered sale deed and Gurpreet Singh

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became owner in possession of the abovesaid house. A civil litigation is pending qua the said house. The FIR has been registered to usurp the property purchased by the above named co-accused by making payment of due sale consideration. Even otherwise, there is unexplained delay of one day in reporting the matter to the police. The injury sustained by the complainant has wrongly been declared grievous. No recovery is to be effected from the petitioner. He is ready to join the investigation. No useful purpose would be served by detaining him into custody. Co-accused Gurpreet Singh has been granted concession of regular bail by this Court. Therefore, it is urged that the present petition deserves to be allowed.

4. Notice of motion.

5. Learned Senior Deputy Advocate General, Punjab who has advance notice of the petition and is ready to argue the matter. She has submitted that there are serious and specific allegations against the petitioner, who along with other co-accused, armed with swords and iron rods etc., had opened an assault upon the complainant on 12.07.2024, in which, the complainant had received several grievous injuries. Custodial interrogation of the petitioner is required for thorough investigation in the matter. Hence, it is argued that the petition is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

7. As per the allegations, the petitioner had formed unlawful membership of an unlawful assembly with the other co-accused and in

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prosecution of common object of that unlawful assembly, he and other co-accused, while armed with swords and iron rods etc., had opened an assault upon the complainant on 12.07.2024 and caused him several simple as well as grievous injuries. The allegations against the petitioner are serious and specific in nature. His custodial interrogation is required for proper investigation in the matter. Even otherwise, no exceptional or extraordinary case has been made out to grant him the concession of anticipatory bail. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out in this case, rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

04.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No