

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

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**CRM-M-7337-2025
DECIDED ON: 10.02.2025**

LOVEPREET RAM ALAIS LOVELY**.... PETITIONER****VERSUS****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Lakhwinder Singh Lakhanpal, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J

1. **PRAYER**

The jurisdiction of this Court has been invoked under Section 482 B.N.S.S.,2023 seeking grant of anticipatory bail to the petitioner in case FIR No.0010 dated 18.01.2025 ,(Annexure P-1) under Sections 115(2), 126(2), 351, 324(4), 191(3), 190 of the BNS, 2023 (Section 109 and Section 304 of BNS added later on) registered at Police Station Baghapurana, District Moga.

2. The contents of the FIR read as under:-

“Statement of Iqbal Singh @ Kala son of Late Sh. Ruldu Singh, resident of Near Gurudwara Sahib, Nathoke, Tehsil and Police Station Baghapurana, District Moga aged about 40 years Mobile: No. 9914950918, Aadhar Card No. 530846443732. Stated that I am resident of above noted address and from the last 8/9 months working as helper with Skywine Farm, Baghapurana. My duty is in the office of the firm as well as to see the work of the wine shop of the village and with the team who goes to collect cash. Yesterday on 17.01.2025 at about 9.00 PM, in the presence

of Manjinder Sharma, Inder Singh, Harpreet Singh and I went to main office, Baghapurana Main wine shop, Rajoana on white colour Scorpio bearing registration No.PB-29AH- 0549, which was being driven by Manjinder Sharma. When we reached near the wine shop of Village Rajoana then two hair cut young boys were arguing at the spot with the salesman namely Daljit Singh resident of Village Rajeana. When after came down from the car, we enquired from them the reason of arguments, then they started hurling filthy abuses and threatened us to be ready to face the consequences and thereafter they ran away from the spot. Thereafter, we sat in our Scorpio vehicle for about 40-45 minutes near the main wine shop of Village Rajeana because the above said miscreants may not to cause any damage to the main liquor vend and when finding no suspicion circumstances for about 40-45 minute, then Manjinder Sharma, Cashier of the shywine who was driving the Scorpio vehicle stated to collect the cash from the liquor vend situated in the village Rajeana and also said me that I will return the vehicle and meanwhile you brought the cash from the liquor vend and on which I asked salesman to handover cash to him and he handed over me Rs. 15,000/- which he had already kept after counting the same, which I had to deposit with cashier at Baghapurana. Thereafter, when we reached at village liquor vend, there 20/25 persons had already gathered armed with deadly weapons such as khandasw, swords, iron rods and baseball bats and some of them were armed with brick bats and it seems that all were appearing under the influence of intoxication and they all of sudden surrounded our vehicle and all of sudden, Lovely son of Nathu Ram resident of Rajeana, who was holding baseball bat, while hurling an abuse, gave a blow with baseball bat on front glass of our Scorpio, due to which front glass was broken. Thereafter

Motta son of Nikkra Vapari, who was holding Khanda, while hurling abuses gave khanda blow which hit on the front light of the Scorpio and due to which light was broken. Similarly, Rajwinder singh son of Sukhdev Singh resident of Village Rajeana who was holding kirpan gave kirpan blow, started giving blows on the roof of the said vehicle and one another boy namely Bobby son of not known resident of Village Rajeana, who was carrying iron rod, started giving blows of rod and started breaking the side mirrors. During this time, Lovely and Jashanpreet singh son of Gola and Rama son of Panni Palleke and other 12/13 unknown persons raised exhortation in high loud to each the contractor of liquor a lesson in order to restrain us from entering into the village. Thereby all the assailants started hurling bricks bats at our Scorpio vehicle and badly damaged the same and then they pulled out Harpreet Singh from the vehicle and started giving beating to him. Then I stepped down from the vehicle Scorpio and came forward in order to save Harpreet Singh, then above said Lovely gave straight blow of baseball bat, which hit on my head, due to which I fell down. Motta and Rajwinder caught hold Harpreet singh and other persons started giving fist blow and slap blow to him and when I begged mercy from them by saying that they are they are employees what is there fault and also started giving beating to me. In the meantime, Lovely said that damaged their vehicle badly to render the same unfit for transportation. Thereafter all the assailants damaged our vehicle with brick bat. By taking the benefit of dark, Manjinder Sharma Cashier and Inder singh ran away from the spot, which further infuriated the above said Lovely, who gave another blow with baseball bat on my left thigh, due to which I fell down and the unknown persons gave kick blow to me, due to which I suffered internal injuries. In the meanwhile, above

said assailants over-powered Harpreet singh and during this, Rajwinder Singh gave blow with sword from the reverse side on Harpreet Singh which hit on the right cheek, due to which he also became unconscious. In the meanwhile, somehow our employer came to know the above said incident and they also reached at the spot and on seeing them, all the assailants fled away from the spot alongwith their respective weapons. Our employers put up us, above said Harpreet Singh was unconscious and I was conscious and thereafter, I narrated entire story to our employer. When I was showing the Scorpio vehicle co our employer and a sum of Rs. 15,000/- I have collected from the main liquor vend of village Rajeana and on seeing the fight, I placed the said envelop of cash in the back pocket of driver seat, which was found stolen and apart from said cash, the documents pertaining to the said vehicle were also missing. All the documents and cash were taken away by Lovely Singh because when I was lying on the ground, then above said Lovely Singh was searching the above said vehicle which was witnessed by me. They have attacked upon us because they have apprehension that their illicit liquor was not selling due to us. Due to this grudge, the above said assailants have given beating to us and also caused damaged to our vehicle and have stolen cash and documents of the vehicle. Legal action be taken against the above said assailants and justice be provided to us. Our employer after arranging the vehicle, got us admitted in Civil Hospital, Moga, where I am under treatment. Statement got recorded, heard which is true and correct. LTI/-Iqbal Singh.”

3. **SUBMISSIONS**

ON BEHALF OF THE PETITIONER:

It is contended by the learned counsel for the petitioner that he

has been falsely implicated in the present case as no such incident had taken

place as alleged in the FIR. He further contends that as per the affidavit of one Daljit Singh(salesman of the liquor vend), only verbal altercation had taken place and neither any physical violence broke out nor any amount was stolen.

Counsel for the petitioner argues that the petitioner is a person of clean antecedent and is willing to join and cooperate in the investigation and prays for grant of anticipatory bail.

Notice of Motion

ON BEHALF OF RESPONDENT-STATE:

On the asking of the Court, Mr.Jaspal Singh Guru, Assistant Advocate General, Punjab, who is present in Court accepts notice on behalf of the State of Punjab and has at the very outset submitted that the statement of Daljit Singh cannot be relied upon since he was not present at the site of occurrence and rather GD entry No.21 dated 20.01.2025, wherein section 109 and 304 BNS were added later on makes it evident that the offence committed is grievous in nature added with the fact that recovery of weapon used is yet to be effected therefore prays for dismissal of the instant petition.

4. Heard learned counsel for the parties at length.

5. **ANALYSIS AND CONCLUSION**

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner. The perusal of the record in hand shows that the petitioner, has been alleged to have given blow with baseball bat on the head of the complainant and has also damaged the vehicle of the complainant.

The investigation is at the initial stage to unearth the truth and moreover, the weapon used in the commission of the offence is yet to be recovered making it imperative for the petitioner to join custodial interrogation.

More so, it is settled proposition of law that power exercisable under Section 482 BNSS, 2023., is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of **Andhra Pradesh vs. Vimal Krishna Kundu, AIR 1997 SC 3589**, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy.

Similarly, in “**Srikant Upadhyay & Ors Vs State of Bihar & Anr. Criminal Appeal No. 1552 of 2024**)” the Apex Court has held that although bail is a rule, but by no stretch of imagination it can be said that anticipatory bail is the rule. The relevant paragraph is reproduced as under:-

24. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the

evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.

6. **RELIEF**

In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required to unfold the truth. Taking into consideration the facts of the case and the gravity of the offence involved, this court does not deem fit to grant the petitioner the concession of anticipatory bail, therefore the instant petition stands 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

10.02.2025

Poonam Negi

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