



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

CRM-M-10898-2025

Date of decision: 27.02.2025

Gurdit Singh @ Guraditta Singh @ Mani

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ashish Gupta, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Senior DAG, Punjab.

RAJESH BHARDWAJ, J.

1. Petitioner has approached this Court praying for grant of anticipatory bail to him in case FIR No.141 dated 10.10.2024, under Sections 109, 115(2), 351(3), 3(5) of BNS, registered at Police Station Jaitu, District Faridkot.

2. Succinctly facts of the case are that the FIR in the present case was registered on the statement of Gurcharan Singh @ Charna. It has been alleged that on 28.09.2024 at about 09:30 PM, he and his friend Kulwinder Singh were going for a walk on the Boundary (Phirni) of the School. When they reached at the main gate of the School then Gurdit Singh @ Mani (petitioner) and Gurpiar Singh son of Balwinder Singh along with two unknown persons came there and started attacking them. Gurdit Singh @ Mani attacked the complainant with the iron rod which hit on his head and then Gurpiar Singh attacked him with the stick on his head. Thereafter, Gurdit Singh again gave another two blows on his head and another blow on the thumb of his left hand. Gurpiar Singh also hit him with stick on his left ear and thumb of his right hand. Receiving



injuries, he fell down and became unconscious. Kulwinder Singh tried to rescue him and called his elder brother Balraj Singh. Many people gathered there and on seeing the people, the assailants escaped from the scene of occurrence by threatening them. Request was made to take legal action against the culprits. On registration of the FIR, investigation commenced. Petitioner apprehending arrest approached the Court of learned Sessions Judge, Faridkot praying for grant of anticipatory bail. However, after hearing counsel for both the sides, the same was declined vide order dated 07.02.2025. Hence, being aggrieved, petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that petitioner has been falsely implicated in this case. He submits that there is an unexplained delay of 12 days in lodging the FIR as the occurrence alleged has taken place on 28.09.2024 whereas, the FIR has been lodged on 10.10.2024. He submits that there is no medical opinion that the complainant was unfit to make the statement. He submits that no injury has been declared dangerous to life and as such, offence under Section 109 of BNS is not made out. It is submitted that the injured has already been discharged from the hospital and thus, in the facts and circumstances of the case, there being no *prima facie* case having been made out, petitioner deserves to be granted anticipatory bail.

4. Learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He submits that petitioner is specifically named in the FIR however, he was duly armed and he gave multiple blows of the iron rod on the body of the complainant including his head. He submits that the intention of the petitioner is writ large from



his conduct and thus, *prima facie* the offence under Section 109 of BNS is made out. He submits that the case is under investigation and in the facts and circumstances of the case, no case is made out for grant of anticipatory bail to the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered from the facts and circumstances of the case that the petitioner along with his associates had allegedly opened attack on the complainant. He was alleged to have armed with iron rod and multiple blows were allegedly given on the head of the complainant and his thumb. The contention of the petitioner that there is a delay in lodging the FIR cannot be taken into consideration at this stage when the allegations against the petitioner are specific and various injuries have been allegedly given by the petitioner to the complainant. The investigation is at threshold.

6. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

Where 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.

When the High Court or the Court of Sessions 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.*

7. 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 also 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.

8. 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.

9. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that the custodial interrogation of the petitioner is very much essential to bring the truth on record and as such, petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

27.02.2025
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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