



CRM-M-11431 of 2025

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

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Reserved on : 27.03.2025

Pronounced on: 01.04.2025

Kamal Kishore Saini

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. H.S. Multani, Advocate, and
Ms. Harpriya Gill, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Saurabh Sabharwal, Advocate,
for the complainant.

NAMIT KUMAR, J.

1. Apprehending his arrest in case FIR No.16 dated 08.02.2025 registered under Sections 115(2), 74, 126(2), 351(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 at Police Station Nangal, District Rupnagar, petitioner has approached this Court under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail.

2. According to the prosecution, on 07.02.2025, complainant Axxxx, her husband Rajesh Gupta and brother-in-law (jeth) Mukesh Bansal went to Down Town Hotel, Ajauli turn, Naya Nangal for taking dinner and when they came out from the hotel and tried to approach their vehicle at about 10:50 p.m., petitioner-Kamal Saini along with 2/3 persons present near the vehicle bearing registration No.HP-80-A-2784



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of grey colour encircled them at once when they were going towards their vehicle and started beating them without disclosing anything. Petitioner-Kamal Saini gave fist blow on the face of her husband and pushed him due to which he fell on the ground. Kamal Saini and his unknown companions gave kick blows on the person of her husband when he was lying on the ground and when complainant tried to rescue her husband, petitioner-Kamal Saini caught hold of her from her hair and pulled her. He threw her on the ground and crushed her hand with his shoes forcibly. When her brother-in-law (Jeth) tried to rescue her, the above named assailants gave beating to her Jeth Mukesh Bansal. When the unknown persons were beating her husband and she tried to rescue him, petitioner caught hold her from her chest and torn her jacket. The buttons of her jacket were broken. Petitioner gave a glass bottle blow on the head of her husband but the bottle did not break, on which petitioner after breaking the bottle by hitting it on the ground tried to hit the same on the person of her husband. Her husband saved himself by raising his arms. When the complainant again tried to rescue her husband, petitioner pulled her on the road after caught holding her from her thigh, due to which she has received number of injuries on her person. Number of persons gathered there and petitioner-Kamal Saini along with his companions decamped from the place of occurrence by giving threat to kill them. The cause of dispute was that earlier petitioner-Kamal Saini and his persons gave beating to the workers of their factory and they got registered FIR against them in the police Station Bathu, District Una.



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3. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case due to political rivalry as he being member of the Zila Parishad, Tehsil Haroli, District Una helped the workers of the factory of the complainant to whom the complainant has not paid salary for the last few months. He further submitted that the petitioner has not committed the alleged offence. He further submitted that all the offences except the offence punishable under Section 74 of the BNS, 2023 are bailable. Learned counsel submitted that no offence under Section 74 of the BNS is made out against the petitioner as he has not committed any offence with an intention to outrage the modesty of the complainant. He further submitted that no specific injury has been attributed to him. He further submitted that the petitioner is ready and willing to join the investigation.

4. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has opposed the prayer for grant of pre-arrest bail to the petitioner as the petitioner along with his co-accused gave beatings to the complainant, her husband and brother-in-law (Jeth). He submitted that for proper investigation of the case and to recover the weapon of offence, custodial interrogation of the petitioner is necessary. Learned counsel for the complainant has produced two pen drives wherein video recording of the incident was made which are taken on record. Registry to keep the same at an appropriate place with the file.



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5. I have heard learned counsel for the parties and perused the record and seen the relevant video recording.

6. Allegation against the petitioner is that he along with 2-3 co-accused wrongfully restrained the complainant, her husband and brother-in-law (Jeth) and gave them beatings. Petitioner gave fist blows upon the face of the husband of the complainant, namely Rajesh Gupta and thereafter pushed him and he fell on the road. Petitioner along with his co-accused gave kick and fist blows while husband of the complainant was lying on the road. As per status report filed by the State, when the complainant came forward to save her husband, petitioner dragged her from her hair and made her to lay on the road. While the complainant was lying on the road, petitioner rubbed his shoe on her palm and when her brother-in-law Mukesh Bansal came forward to save them, petitioner and his co-accused gave severe beatings to him. When again, the complainant tried to save her husband, petitioner caught hold of her from her breast and torn her jacket and broke its buttons. Petitioner also attacked the husband of the complainant with a glass bottle. Further, the petitioner dragged the complainant on the road by grabbing her from her thigh and as a result of which she received multiple injuries. When the people gathered on the spot, petitioner and his co-accused fled away from the spot in their car while giving threats to them.

7. As per MLR, complainant received six injuries on her person in the said occurrence which are as under:

“1. 3 Reddish Abrasions measuring between 0.5 x 0.5 cm to 2 cm x 1 cm over Right Hand and dorsal



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surface of middle, ring and little finger with complaint of pain in right hand. Tenderness present. Advised Ortho opinion.

2. *Reddish Abrasion measuring 1.5 x 1.5 cm over Left Knee on anterior surface with complaint of pain in left knee. Advised Ortho Opinion.*
3. *Reddish bruise measuring 2 cm x 2cm over Right Knee on Anterior surface with complaint of pain in right knee, advised Ortho opinion.*
4. *Complaint of pain in right inner thigh and left inner thigh. No external injuries seen, advised ortho opinion.*
5. *Complaint of pain in neck on right side posteriorly. No external injury seen. Advised Ortho opinion.*
6. *Complaint of pain in left arm and left forearm. No external injury seen. Advised ortho opinion.”*
8. Perusal of copy of MLR regarding injuries on the person of Mukesh Bansal shows that he has received four injuries on his person which are as under:

- “1. *Reddish bruise measuring 1 cm x 1 cm over Right Cheek 2 cm inferior to right eye with complaint of swelling around right orbit. Advised Eye opinion.*
2. *Linear reddish abrasion measuring 1 cm on Distal Phalanx of middle finger of right hand on dorsal surface with complaint of pain in right hand. Advised ortho opinion.*
3. *Reddish Circular Abrasion measuring 1 cm x 1 cm over right elbow on dorsal surface with complaint of pain in right elbow. Advised ortho opinion.*
4. *Complaint of pain in right side of chest. No external injury seen. Advised surgery opinion.”*



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9. Perusal of copy of MLR regarding injuries on the person of Rajesh Gupta shows that he has received five injuries on his person which are as under:

- “1. *Linear Reddish abrasion measuring 0.5 cm in length over left eyebrows lateral margin.*
2. *Linear reddish abrasion measuring 1 cm in length over left cheek 2.5 cm inferolateral to left eye with complaint of swelling around left orbit. Advised eye opinion.*
3. *4 Reddish Circular Abrasions over left knee measuring between 0.1 cm x 0.1 cm to 0.5 cm x 0.5 cm with complaint of pain in left knee. Advised ortho opinion.*
4. *Reddish abrasion measuring 0.5 cm x 0.5 cm over right knee with complaint of pain in right knee. Advised ortho opinion.*
5. *Reddish abrasion measuring 1 cm x 0.5 cm over right elbow on dorsal surface with complaint of pain in right elbow. Advised ortho opinion.”*

10. As per medical opinion, all the injuries were found to be caused with blunt weapon and there was fracture on the right little finger, accordingly injury No.1 of the complainant was found grievous in nature.

11. There are specific allegations against the petitioner that he along with his co-accused gave severe beatings to the complainant, her husband and brother-in-law (Jeth) and tried to outrage the modesty of complainant by tearing her jacket and by catching hold of the complainant by her breast.



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12. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. (now Section 482 of the Bharatiya Nagrik Suraksha Sanhita, 2023) is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

13. As per own version of the petitioner, he helped the workers of the factory of the complainant who have not been paid salary for last few months. However, act of the petitioner in beating the husband and brother-in-law of the complainant and tearing of clothes of the complainant is condemnable as being people's representative, he should not have taken the law into his own hands and subjecting individuals to such humiliation by tarnishing their dignity and social standing. Such an act is an act of serious concern and cannot be condoned. Vigilante justice cannot replace due process, and legal action must follow established procedures. Justice must be pursued within the framework of law, not through public humiliation and mob-like punishment.

14. The allegations against the petitioner are serious and grave in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses at this stage.



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15. Reliance can be placed upon the Hon'ble Supreme Court dictum passed in *Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598* and *Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364* whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

16. No other point has been argued.

17. In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot *prima facie* be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner may abscond and misuse his liberty. Moreover, weapon(s) used by the petitioner in the commission of said offence is yet to be recovered. Therefore, he does not deserve concession of anticipatory bail.

18. In view of the above, the petition is dismissed.

19. However, nothing stated hereinabove shall be construed as a final expression of opinion on the merits of the case.

(NAMIT KUMAR)
JUDGE

01.04.2025
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No