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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.13492 of 2025
Date of decision: 28.04.2025

Sanjay Kumar ... Petitioner
Vs.
State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Nandan Jindal, Advocate,
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab,
for the respondent-State.

Mr. Vivek Singla, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
171	22.11.2024	City Fazilka, District Fazilka	333, 115(2), 118(1), 190, 191(3), 351(2) and 351(3) of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”) (117(2) and 118(2) of BNS added later on)

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of

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statement recorded by complainant Shivam alleging therein that on the intervening night of 18/19.11.2024, a function qua marriage of his cousin brother was taking place at Sanjeev Palace, Fazilka. The petitioner who was in a drunken condition had started eve-teasing the girls dancing there and had started dancing with them. When his act was objected to, he had started foul mouthing and manhandling the persons present there and then he was turned out of the venue. On the night of 19.11.2024, he along with the co-accused Azad and 5-6 unknown youths entered inside the house of his aunt and opened an assault upon the complainant and other persons. The complainant and others sustained simple as well as grievous injuries. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner moved an application for grant of pre arrerst bail which was dismissed by the Court of learned Additional Sessions Judge, Fazilka vide order dated 23.01.2025.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is delay of three days in lodging of the FIR which has created a dent over the truthfulness of the prosecution story. Infact, the petitioner and his brother had been beaten up mercilessly in the incident. He is ready to join the investigation. The co-accused Azad has been extended benefit of pre arrest bail. His custodial interrogation is not required. Neither any recovery is to be effected from him. Therefore, it is argued that the petition deserves to be

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allowed.

4. Status report has been filed. Learned Assistant Advocate General, Punjab assisted by learned counsel for the complainant has argued that there are serious and specific allegations against the petitioner who actively participated in the occurrence. The grievous injury sustained by the complainant has been attributed to him. Not even this, he along with the co-accused had caused injuries to Dilpreet Singh, Rinki wife of Anil Kumar, Triveni Devi and Sher Singh as well. The head injury sustained by the injured Shivam has been declared to be grievous in nature and it has been caused by a sharp edged weapon, which has been attributed to the petitioner. For conducting thorough investigation of the matter, the custodial interrogation of the petitioner is required. No sparing and extraordinary circumstance has been made out for extending benefit of bail. It is, therefore, argued that the petition does not deserve to be allowed.

5. This Court has considered the rival submissions.

6. The petitioner by forming an unlawful assembly with the co-accused and is prosecution of common object of that assembly is alleged to have opened an assault upon the complainant and other victims as on the night of 19.11.2024 and is further alleged to have voluntarily caused simple as well as grievous injuries to them. The complainant had sustained grievous injury caused by sharp edged weapon on vital part of his body at the hands of the petitioner. For conducting thorough

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investigation in the matter, the custodial interrogation of the petitioner is must. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant's fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. Keeping in view the gravity thereof, the role attributed to the petitioner, the likelihood of his influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is, however, clarified that observations made hereinabove

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shall not be construed as an expression of opinion on the merits of the case.

28.04.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No