



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13695-2025
DECIDED ON: 11.03.2025

VIJAY @ MONU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunpreet Singh, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 of B.N.S.S seeking grant of anticipatory bail to the petitioner in case FIR No. 145, dated 04.11.2024, registered under Sections 115(2), 126(2), 351(2), 191(3), 190, 109 and 111 of BNS, 2023, registered at Police Station: Division No.8, Ludhiana.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Stated that I am resident of above address. On dated 02.10.2024 at about 12:30 AM, I alongwith my friends Harsh, Shiv Kumar, Sandeep Kumar for celebrating birthday of my friend Chetan Malhotra gathered near Rose Garden, then Vijay @ Monu R/o Hebowal, Sonu R/o Hebowal, Ludhiana, Ashok Kumar @ Shoki R/o Sangam Chowk, Tarun R/o Jalandhar, Rohit Bains @ Jaggi R/o Dhobi Ghat, Near KVM School, Ludhiana, Suraj

Chauhan, Ravi Sahota R/o Chander Nagar, Ludhiana, Neeeraj Chauhan R/o Hebowal, Ludhiana alongwith 8-10 unknown boys, riding on their vehicles, which also include Sonu brother of Vijay, who were carrying sharp-edged weapons like Datar, swords, baseball, khanda and started attacking my above friends Harsh, Shiv Kumar and Sandeep Kumar. Head of above Sandeep got hit with datar and attacked with swords on the heads of my above friends Harsh and Shiv Kumar. When I came forward to pacify them, then they hit my head with datar. They snatched 02 tola gold ring from my neck and also snatched phones of myself and my friend Chetan Malhotra i.e. 02 phones, first phone mark-Samsung, grey-colour and second phone mark-OPPO colour black. In the first phone, two SIM numbers 78888-49349, 78378-98980 and in second phone also two SIMs bearing numbers 98888-96889, 98774-95593 are running. After beating us, the respondents ran away from the spot after threatening to kill us. Due to injuries on us, I alongwith my friends reached at Civil Hospital, Ludhiana where we got our treatment done and got issued MRs No. 1411 MN/24, MLR 1414 MN/24, 1413 MN/24, MLR 1412 MN/24. Now, I was coming to you to report the matter alongwith my friends Harsh, Shiv Kumar, Sandeep Kumar that you met us, action may be taken.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner contends that there is no specific injury attributed to the petitioner. He further contends that the current incident does not fall under the offences specified in Sections 109 and 111 of the BNS as Section 109 relates to the attempt to murder, whereas

the medical reports of Ajay, Shiv Kumar, Harsh, and Sandeep Kumar indicate that the injuries sustained are simple in nature, and the weapon used was blunt. However, the FIR states that the weapons used by the petitioner and the co-accused were Dattar, swords, khanda, and a baseball bat, with all but the baseball bat being sharp-edged weapons. This discrepancy raises serious doubts about the credibility of the prosecution's narrative.

Notice of motion.

On behalf of the respondent-State

On the asking of the Court, Mr. Jaspal Singh Guru, AAG, Punjab accepts notice on behalf of the respondent-State, who seeks dismissal of the instant petition on the ground that the petitioner is a habitual offender as he is involved in another case. He further submits that the petitioner and other co-accused persons had attacked the complainant with sharp edged weapon, which causes serious injuries to the complainant's party and that too on the vital part of the body.

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 the petitioner does not deserve the concession of anticipatory bail as his custodial interrogation is required at this stage for the purpose of recovering the said weapons. Moreover, he is involved in another FIR meaning thereby he is an habitual offender.

In addition to above, the petitioner and other co-accused persons had caused serious injuries to the complainant's party with deadly weapons that too on the vital part of the body i.e. head.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory

bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNS, 2023 is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable 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 material 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 needs 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.”

Hence, in the light of above stated facts and circumstances and the legal principles, this petition is sans merit and is hereby dismissed.

However is is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

11.03.2025
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>