

2025:PHHC:037003



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

106

CRM-M-14638-2025

DATE OF DECISION: 18.03.2025

KARN KUMAR ALIAS KARAN SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.K. Choudhary, Advocate
for the petitioner(s).

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

This petition has been filed under Section 482 of B.N.S.S,
for granting anticipatory Bail to the petitioner in FIR No.07 of
30.01.2025 Under Section 108 read with Section 3 (5) of BNS, 2023
Police Station:-Division No.2, Pathankot.

2. Prosecution story, set up in the present case as per the
version in the FIR reads as under :-

*‘Statement of Sunny Singh Son of Surinder Singh resident
Near New Dargah, Bajri Company Pathankot at present resident
Angura Walla Bagh Shakti Nagar Pathankot PS Division No. 02
District Pathankot, age About 30 Years, Mobile Number 91156-
21681, I have stated that I am a resident of the above said
address and I am selling vegetables at Vegetable Mandi*

Pathankot, we are 03 brothers and 01 sisters. The eldest brother Ravinder Singh is about 34 years old who had an appendix operation one month ago. I am younger than him and my younger brother is Ashu Singh and my sister is Sonam Kaur, I and my sister Sooman Kaur are married and my elder brother Ravinder Singh and my younger brother Ashu Singh are unmarried. I with my father Surinder Singh and mother Babli Kaur and my family in which my wife Palak Kaur and 2 daughters Manisha Kaur and Ragni Kaur are live in a rented house of Jyoti Lovely resident of Angura Walla Bagh Sakti Nagar Pathankot and my wife Palak Kaur who works at Ludhiana and lives in Ludhiana with both children, Yesterday on 29.01.2025 at about 8:30 PM, I went to Vegitablemarket as usual and my Younger brother Ashu Singh called on number 91156-21681 and said that elder brother Ravinder Singh was beaten and humiliated by three girls of Mohalla Angurawala Bagh Sakti Nagar, who came home and told me all this, I took my friend Arun Kumar son of Naresh Kumar resident of Nehru Nagar Pathankot to my rented house and took my younger brother Ashu Singh and mother Babbali Kaur and friend Arun Kumar along with my elder brother and went to Mullah Angsorawala Bagh Sakti Nagar as per the statement of Ravinder Singh, where Karan Kalyan, son of MadanLal, resident of nearby Siv Nagar, Sunder Nagar, Pathankot, Dildar Singh, son of Mangal Singh, resident of Angoorawala Bagh, Sakti Nagar Pathankot and Karan Singh son of Gulab Singh, resident of Angoorawala Bagh, Sakti Nagar Pathankot met and I asked them about the beating of my elder brother Ravinder Singh. They abused me and my family members who went with me and threatened that who are you? I said that I am the younger brother of Sorav President Aam Aadmi Party. The said three also abused Sorav in front of me that we do not know any Sorav Pradhan. Karan Kalyan called someone from his mobile phone at the spot. After some time, 04 unknown boys came to spot and

assaulted us. Then we four people joined hands in front of the said boys and came back to our house that we do not want to have any quarrel and my friend Arun Kumar went to his house and we had dinner and I and my younger brother Ashu Singh, My mother Babli Kaur and father Surinder Singh slept in the downstairs bedroom and my elder brother Ravinder Singh slept in the bedroom upstairs and at 04.00 AM, I went to Sabji Mandi Pathankot along with his younger brother. Today on 30.01.2025 it was around 10.00 AM that I received a call from my house that my elder brother Ravinder Singh had tied a rope to the ceiling fan in his room and he died. The elder brother Ravinder Singh had hanged himself with a rope around his neck with the ceiling fan inside his room, he had died by taking the noose. The death body was hanging, my family members removed the dead body from the fan and put it on the bed, and saw that my brother had died, my brother Ravinder Singh yesterday Karan Kalyan son of MadanLal resident of Near Shiv Nagar Sunder Nagar Pathankot, Dildar Singh son of Mangal Singh resident of AngooraWala Bagh Shakti Nagar Pathankot and Karan Singh son of Gulab Singh resident of Angoora Walla Bagh Sakti Nagar Pathankot had beaten and humiliated them, Due to the shock and fear caused by them, my elder brother Ravinder Singh ended his life by hanging himself with a nylon rope in his bedroom at night with a ceiling fan. Regarding this incident, I called the Punjab Police Helpline 112 from my mobile number 91156-21681 and informed about it. Accused Karan Kalyan son of MadanLal resident of near Siv Nagar Sundar Nagar Pathankot, Dildar Singh son of Mangal Singh resident of Angrawala Bagh Shakti Nagar Pathankot and Karan Singh son of Gulab Singh resident of Angoorawala Bagh Sakti Nagar Pathankot and legal action to be taken against and unidentified 04 persons. SD/- Sunny Kumar Signature Verified in Hindi Naresh Kumar ASI Police Station Division No. 02 Pathankot Dated 30.01.2025.

3. Contentions

On behalf of the petitioner

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and has not committed any offense. He further argues that, according to the allegations, three individuals assaulted the deceased and humiliated him, which does not constitute abetment, and therefore, an offense under Section 108 of the BNS, 2023 (formerly Section 306 of the IPC) is not applicable. The counsel also assures on behalf of the petitioner that he is ready and willing to cooperate with the investigation.

Notice of motion.

On behalf of the respondent/State

On the asking of Court, Mr. Jaspal Singh Guru, AAG accepts notice on behalf of the respondent/State and submits that the deceased was humiliated and beaten by the petitioner a day prior to the incident, which led to his suicide. He further submits that during the interrogation of the co-accused, it was revealed that the deceased was taunted with references to his caste. He therefore asserts that the custodial interrogation of the petitioner is necessary.

4. Analysis

Section 108 of BNS, 2023 reads as under :

"108. Abetment of suicide

If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

From a bare reading of the provision, it is clear that to constitute an offence under Section 108 of BNS, 2023, the prosecution

has to establish: (i) that a person committed suicide, and (ii) that such suicide was abetted by the accused. In other words, an offence under Section 108 of BNS, 2023 would stand only if there is an "abetment" for the commission of the crime.

The parameters of "abetment" have been stated in Section 45 of the BNS, 2023, which defines abetment of a thing as follows :

"107. Abetment of a thing

A person abets the doing of a thing, who -

First- Instigates any person to do that thing; or

Secondly- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1- A person who by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."

As per the Section, a person can be said to have abetted in doing a thing, if he, firstly, instigates any person to do that thing; or secondly, engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing. Explanation to Section 45 of BNS states that any wilful misrepresentation or wilful concealment of material fact which

he is bound to disclose, may also come within the contours of "abetment". It is manifest that under all the three situations, direct involvement of the person or persons concerned in the commission of offence of suicide is essential to bring home the offence under Section 108 of the BNS, 2023.

Further reliance can be placed upon judgement rendered by Apex Court in ***Marino Anto Bruno and Anr. Versus The Inspector of Police criminal appeal no. 1628 of 2022*** wherein this Court has time and again reiterated that before convicting an accused under Section 108 of BNS, 2023, the Court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life.

Coming back to the present case, wherein there are direct allegations against the petitioner that he alongwith other co-accused persons gave beatings to deceased Ravinder Singh, a day prior to the incident and also humiliated him suggests that all the accused persons abetted the commissioning of the offence, which made the deceased to do end his life. Therefore, there is a direct proximity and link between the deceased and the accused persons.

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 438 Cr.P.C.(now 482 of BNSS, 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.”

In view of the seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the instant petitions, hence, the same are hereby 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

18.03.2025
Meenu

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