



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16063-2025
DECIDED ON: 25.03.2025

SAHIB MASIH AND ANR.

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Hitesh Chopra, Advocate
for the petitioners.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

RELIEF SOUGHT

1. The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in the case of FIR No. 11 Dated 18.02.2025 u/s 117(2), 3(5) BNS, 2023 and u/s 110 BNS, 2023 (Added later on vide GD. No. 19 dated 05.03.2025) registered at Police Station Tibber, District Gurdaspur (Annexure P-1).
2. Prosecution story setup in the present case as per the version in the FIR as under:-

Statement of Rupesh Mash son of Dasa Mash, resident of Bajechak, Police Station Tibber, age about 35 years, mobile no. 9878488571. Stated that I am resident of aforesaid address and doing the business of paint. I am present member panchayat of village Bajechak. On dated 26.01.2025, panchayat of village Bajechak was making

measurement of a street of village for laying sewerage pipeline and at that time I was also present in association of the panchayat and my brother Rakesh Mash, Liyas Masih son of Piara Masih; Jiwan Gill son of Santokh Mash, residents of Bajechak were also accompanying me. At about 4:30 PM, when we were to make measurement of the street in front of house of Sahab Mash son of Ajit Mash, resident of Bajechak, then, Sahab Masih son of Ajit Mash wielding iron rod; Krishna wife of Sahab Masih empty handed; Joban Mash son of Sokha Masih empty handed, all residents of village Bajechak Police Station Tibber were present there and at that time Sahab Mash started hurling abuses to Rupesh Masih and aforesaid Joban Mash slapped Rakesh Mash as stated as to why you are going to construct a water tank in front of the house of my uncle Sahab Masih and meanwhile, aforesaid Krishna made proclamation and stated catch hold of them and teach lesson for construction of water tank in front of our house and in the meantime, aforesaid Sahab Singh, with an intent to kill, made assault with the iron rod, wielded by him, upon my brother Rakesh Mash, which struck in middle of his heads towards left side. I came forward to save my brother Rakesh Mash, then, aforesaid Joban Mash, took iron rod from aforesaid Sahab Mash and gave assault with iron rod to me which hit on left side of my head. Meantime, aforesaid Sahab Mash gave fist blow on my nose. We, both, raised alarm 'mar dita' 'mar dita' and seeing the inhabitants of the village being gathering over there, all the aforesaid assailant along with their respective weapons, fled away from the spot. Aforesaid Liyas Masih and Jiwan Gill made arrangement for conveyance and brought me and my brother Rakesh Mash to civil hospital, Gurdaspur, where, doctor provided first aid treatment to us and

issued our MLRs and I was made hospitalized while my brother Rakesh Mash was referred. Aforesaid Jiwan Gill after making arrangement for conveyance got my brother Rakesh Masih hospitalized in Medicity Hospital, Gurdaspur. I have been discharged from civil hospital, Gurdaspur and my brother Rakesh Masih has also been discharged from Medicity Hospital, Gurdaspur. Cause for the grievance is that panchayat was interesting in laying sewerage pipe line in the street and was looking to construct a water tank, but, aforesaid Sahab Singh was not interested to get the water tank constructed in front of his house, due to which aforesaid accused persons by raising feud have caused injuries to us. I along with my cousin (uncle's son) aforesaid Jiwan Gill son of Santokh Mash was going to police station for getting my statement recorded with you and you met us on the way. Legal action against the aforesaid persons may be initiated.”

SUBMISSIONS

ON BEHALF OF THE PETITIONER:

3. It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case in connivance with Punjab officials only to harass the petitioner. He further contends that there is delay of 23 days in lodging the FIR which depicts that the complainant party has used their influential position of being member Panchayat and falsely roped in the petitioner in the instant case.

Notice of motion.

ON BEHALF OF RESPONDENT-STATE:

4. On the asking of the Court, Mr. Jaspal Singh Guru, AAG, Punjab who is present in Court, accepts notice on behalf of the State and

submits the report which is taken on record according to which an MLR was conducted dated 26.01.2025 as per which injury no.1 is declared to be dangerous to life. Moreover, the petitioner gave blow of iron rod upon the head of Rakesh Masih which is a vital part and only owing to this injury, section 110 BNS has been added in the FIR vide GD No. 19 dated 05.03.2025 registered at Police Station Tibber, District Gurdaspur. Thus, on these grounds the bail application is liable to be dismissed.

5. Heard learned counsel for the parties at length.

ANALYSIS AND CONCLUSION

6. 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 custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner wherein he is alleged to have given blow on the head of Rakesh Masih with iron rod therefore in light of that, the court by no stretch of imagination can grant the relief of anticipatory bail to the petitioner.

Moreover, it is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of **Andhra Pradesh vs. Vimal Krishna Kundu**, AIR 1997 SC 3589, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in **Ram Govind Upadhyay versus Sudarshan Singh**, (2002) 3 SCC 598, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

7. In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required to bring the true picture to the ground regarding recovery of alleged contraband. Therefore, I find no merit in the petition and the same is hereby dismissed.

8. 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

25.03.2025

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No