

2025:PHHC:050000



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

**CRM-M-17424-2025
DECIDED ON: 01.04.2025**

RAJU ALIAS RAJAN ALIAS RAJAN SINGH**.....PETITIONER****VERSUS****STATE OF HARYANA****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. D.S. Punia, Advocate
for the petitioner.

SANDEEP MOUDGIL, J**1. Relief Sought**

The jurisdiction of this Court under Section 482 of BNSS, 2023 for grant of Anticipatory Bail to the Petitioner in FIR No. 81 Dated 08.03.2025 under Sections 351(3), 3(5), 118(1), 115(2) and 109(1) of BNS, 2023, registered at Police Station Sadar Fatehabad, District Fatehabad.

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

“Statement of Akush Bharti s/o Tara Singh s/o Puran Singh r/o Katakheri, tehsil & Distt. Fatehabad aged 22 years, 80598- 61521. Stated that I am resident of above said address and I am matriculate. I am employed as guard in marriage palace on dated 5.3.2025 at 10.00 PM I was attending ring ceremony at the house of our neighbourer Kala Singh s/o Sh.Jagtar Singh of village Katakheri. In

that function Jashan s/o Sh.Gurbachan Singh @ Vishakha, Gurbachan Singh s/o Sh. Mehar Singh, Vijay s/o Sonu Panch and Raju s/o Prem Singh all residents of Katakheri were also present. In that function there was some exchange of hot words between us. Vijay called me in street and Vijay also called Jashan, Gurbachan and Raju in the street. Jashan was holding a knife with wooden butt and Vijay was holding knife in his hand and Gurbachan Singh caught me by hair and Vijay inflicted a knife blow in my stomach and Jashan gave a knife blow on my back and Raju gave me slaps and fists blows and all theses four tried to murder me. When I raised a noise, then they ran away after seeing the people coming and threatened me that today escaped in future we will kill you. The grudge is earlier I was in their company now from the last 2-3 months I am not joining there company. My father after arranging the vehicle took me to Sadbhawna Hospital Fatehabad, doctor did not admit me and advised us to take a treatment from medical college Agroha. My father admitted me in Agroha Medical College, where I am getting my treatment. A stern legal action may be taken against Jashan, Gurbachan Singh, Vijay and Raju, who attempted to murder me. I have recorded my statement voluntarily in the presence of my father which is correct. Sd/- Tara Singh LTI Akush Bharti, Attested Rajni Bala EASI PS Sadar Fatehabad. Police action:- xXX XXX XXX”

3.

Contentions**On behalf of the petitioner**

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present and no role has been attributed to the petitioner except giving slaps and fists blow to the complainant. It is further submitted that the injury declared as dangerous to life has been specifically attributed to co-accused Vijay. Counsel also contends that there is no recovery to be effected from

the petitioner. He further submits that the petitioner is ready and willing to join the investigation and cooperate with the investigating agency.

Notice of motion.

On behalf of the respondent/State

Mr. Baljinder Singh Virk, Sr. DAG Haryana, appearing on advance notice, accepts the same on behalf of the respondent/State and submits that the petitioner alongwith his co-accused inflicted injuries to Ankush Bharti and as per the CCTV footage, he was present at the spot.

4. Analysis

As per the prosecution story prima facie there are direct allegations against the petitioner that he alongwith his other co-accused has given slap and fist blows to the complainant and all of them acted in furtherance of their common intention. Therefore, granting the concession of anticipatory bail to the present petitioner would somewhere or other give an endorsement to the illegal act committed by them, which is against the law. Further it is mandatory that such types of offenders, who dare to take law in their hands are punished so that in future they think twice before doing any type of illegal acts.

Also this Court would opine that in everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This

evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

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 BNSS, 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.”

Keeping in view of the facts that the petitioner was present at the spot as can be seen in CCTV footage and he alongwith his co-accused have inflicted injuries to the complainant, this Court is of the view that his custodial interrogation is required.

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.

01.04.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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