



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

**CRM-M-18025-2025
DECIDED ON: 02.04.2025**

RAHUL AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. H.S. Multani, Advocate for the petitioners.
Mr. B.S. Virk, Sr. DAG, Haryana.
Mr. Partap Singh, Advocate and
Mr. Vikas, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this Court has been invoked under Section 482 of BNSS, 2023 for grant of anticipatory bail in FIR No. 187 dated 20.03.2025 under Sections 190, 191(3), 126(2), 115(2), 117(2), 351(2), 61(2), 109 of BNS, 2023 registered at Police Station Sadar Thanesar, District Kurukshetra.

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

I, the above-named and addressed, state that I am a married man with children. For approximately 10 years, I have been running Maharaja Transport Company at Pipli Grain Market. For about 10 years, I have been taking the labor and transport tender for Pipli Grain Market. As I do every year, this year too, on March 17, 2025, I filled out the online form to obtain the transport tender for Ladwa, Pipli, and Pehowa

Grain Markets (MLC). On March 18, 2025, during the day, I received several phone calls on my mobile number 98127-69008 and my father, Mr. Tilak Raj's mobile number 7454000045, from Pratap Rana and his son Pradeep Rana, residents of Kurukshetra, who obtain the transport tender for Kurukshetra Grain Market. They told us that we had mistakenly filled the transport tender form for Ladwa Grain Market and that it was not right. Yesterday, on March 19, 2025, at approximately 10:30 AM, when I was traveling in my vehicle, a Bolero with registration number PB2OD-1265, from my home in Atal Nagar to Maharaja Transport office in Pipli Grain Market, at approximately 10:40/10:45 AM on Ladwa Road, Pipli Main, near Prakash Trading shop in Atal Nagar Lane, a black Scorpio without a number plate collided with my vehicle from the front, blocking my way. Four young men, carrying sticks, got out of the Scorpio and pulled me out of my vehicle. They told me that I had made a mistake by filling the online form to obtain the tender for Ladwa Grain Market. Then, all four of them started beating me with sticks. Three of them had their faces covered with cloth. Then those four boys beat me with sticks. They hit my legs with sticks and one of them tried to hit my head with a stick. I defended myself with my right hand and he hit my hand with the stick, fracturing my arm. They broke the front and side windows of my car and took 1 lakh 32 thousand rupees from the armrest inside the car. They also snatched the gold chain from my neck while beating me and threatened me, saying that if I ever looked towards Ladwa again, they would kill me. I came to know that the ones who beat me were Karan Singh, son of Pramod Saini, Abhi Lala, Rahul. The ones who beat me were Mahant, Nikhil, and Nannu, residents of Ladwa. I also suspect that Pratap Rana and Pradeep Rana, residents of Kurukshetra, orchestrated the attack, or that it was done by someone known to Pratap Rana. Legal action should be taken against all of them, and I should be given justice. I have given my statement during my treatment at the hospital. I have heard, read, and understood it.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioners submits that the petitioners have been falsely implicated on the basis of the statement made by Parvinder Chaudhary, son of Tilak Raj, resident of Atal Nagar, Pipli, Police Station Sadar Thanesar, District Kurukshetra, which is alleged to be false, concocted, and an afterthought.

Counsel contends that the police are now acting at the behest of the complainant party, allegedly driven by political rivalry, and are determined to effect the arrest of the petitioners in this false and motivated case. It is also contended that the petitioners are willing to cooperate with the investigation and undertake to join the same as and when directed.

Notice of motion.

On behalf of the State/complainant

Learned State Counsel, assisted by learned counsel for the complainant, opposes the present petition and seeks its dismissal on the ground that recovery of black colour car, dandas and bindas which were used at the time of commission of offence, are yet to be recovered from the possession of the petitioners, therefore, their custodial interrogation is required.

4. **Analysis**

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.

Adverting to the merits of the present case perusal of the CCTV footage shows that the complainant has been brutally beaten by the accused persons and the involvement of other persons in the alleged incidence is to be inquired by the investigating agency and the custody of the petitioners is necessary to know the actual truth and involvement of other person in the incidence. Moreover the weapons used in the commissioning of offence are yet to be recovered as has been submitted by learned State counsel.

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 ensconced 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.”

5. Relief

Consequently, this Court is of the considered view that custodial interrogation of the petitioners is warranted to facilitate a thorough and effective investigation. Accordingly, no exceptional or compelling circumstances are made out so as to warrant the grant of anticipatory bail to the petitioners.

In the light of above, the petition stands 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

02.04.2025
Meenu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No