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

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CRM-M No.18781 of 2025
Date of decision: 24.07.2025

Sanjeev Kumar @ Kadda and another ... Petitioners

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Manbir Singh Basra, Advocate,
for the petitioners.

Mr. Vivek Sharma, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioners under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in cross version vide DDR No.26 dated 31.01.2025 registered under Sections 115(2), 118(1), 333, 190 and 191(3) of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”) (Sections 118(2) and 117(2) of BNS added later on) arising out of FIR No.03 dated 15.01.2025 registered under Sections 115(2), 118(1), 333, 190 and 191(3) of BNS at Police Station Tibber, District Gurdaspur.

2. Brief facts relevant for the purpose of disposal of the present

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petition are that the aforementioned FIR No.03 had been registered on the basis of statement recorded by complainant Pankaj alleging that on the night of 13.01.2025, a function on occasion of Lohri was being performed in the house of his co-villager Nitish Kumar which was attended by him and several other persons. At about 9:30-10 PM, Joginder Pal @ Jinda, Jitender Kumar, Rohan, Rajesh Kumar, Ram Asra, Anmol, Abhishek @ Abhi and Ridham reached there being armed with weapons. Ridham made an exhortation and then Joginder Pal opened an assault upon the complainant and others. All of them caused injuries to complainant and his companions and thereafter they fled from the spot. It was alleged by the complainant that a scuffle had taken place between himself, Nitish and the assailants Abhishek and Anmol on the previous day and feeling offended, they had inflicted injuries. After registration of FIR, investigation proceedings were initiated.

3. Then the DDR No.26 was entered on 31.01.2025 on the basis of statement recorded by Rohan alleging that on 13.01.2025, he along with his family members was present in his house when the present petitioners along with co-accused Nitish Kumar, Vijay Kumar, Nikhil Kumar, Palwinder Kumar @ Bhinda, Lovedeep Kumar @ Labbi, Ashwani Kumar, Pankaj Kumar and others entered therein while being armed with weapons. The accused Nikhil Kumar struck a blow with datar

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thereby injuring right index finger of the complainant-Rohan. Apprehending their arrest, the petitioners moved application for grant of pre arrest bail which was dismissed by the Court of learned Additional Sessions Judge, Gurdaspur vide order dated 11.03.2025.

4. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. It is a case of version and cross version. There is delay of 17 days in lodging the DDR No.26 which is counterblast to the FIR got registered by member of his party. Some co-accused have been extended benefit of anticipatory bail. On parity, they deserve to be given the same benefit. They are ready to join the investigation. Their custodial interrogation is not required. It is, therefore, argued that the petition deserves to be allowed.

5. Status report has been filed. It is argued by learned Assistant Advocate General, Punjab that there are grave allegations against the petitioners who by forming membership of an unlawful assembly with the co-accused had assaulted the victims and had caused serious injuries to them. It is, therefore, argued that the petition does not deserve to be allowed.

6. This Court has considered the rival submissions.

7. The petitioners are alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common

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object thereof are alleged to have assaulted Rajesh Kumar, Jatinder Kumar and Abhishek. The injury sustained by Abhishek was opined to be grievous in nature. The root of his little finger to the back of thumb on the right hand had been chopped off. A photograph of the injury has been placed on record which shows the brutality committed by the petitioners while assaulting the victim Abhishek. Though the injuries attributed to petitioner No.1-Sanjeev Kumar on the person of Rajesh Kumar and the injury attributed to petitioner No.2-Lovepreet Kumar on the person of Jatinder Kumar have been opined to be simple. However, it is apparent that it was in prosecution of their common object that grievous injury with sharp edged weapon has been caused on the person of victim Abhishek. The allegations show a prima facie case of vicarious liability of the petitioners in commission of the subject offences. The allegations against them are quite grave in nature. The weapons of offence are to be recovered. For conducting thorough investigation in the matter, the custodial interrogation of the petitioners is must. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of

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mind as to the nature and gravity of the accusation, possibility of applicant’s fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. In the present case, no exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. Keeping in view the gravity thereof, the role attributed to the petitioners, the likelihood of their influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, this Court is of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

8. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

24.07.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No