



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

**CRM-M No.18763 of 2025
Date of Decision: 30.04.2025**

Balkar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Karandeep Singh Sidhu, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for the grant of anticipatory bail to the petitioner in case bearing FIR No.285, dated 20.11.2024, under Sections 109/61/(2)/115(2)/191(3)/190 of BNS and Sections 25/27 of Arms Act, 1959 (Sections 333/324 of BNS added later on vide report No.24 dated 25.11.2024), registered at Police Station Sadar Ferozepur, District Ferozepur (Annexure P-1).

2. Succinctly the facts of the case are that FIR in the present case was registered on the statement of Mukhtiar Singh @ Mukha. It was alleged that his relative Gurdeep Singh had to take an amount of Rs.5 lacs from Balkar Singh (petitioner). However when the same was not given, Gurdeep Singh convened a Panchayat for taking this amount. On 20.11.2024, at about 11:30 A.M., his relative Gurdeep Singh and his wife Palo Bai, along with other relatives had convened a meeting. Balkar Singh made a phone call to Palo Bai, wife of Gurdeep Singh and told that



he will not given any money and used derogatory words. Thereafter, Balkar Singh (petitioner) in a pre-planned manner brought many persons, who were armed with *dangs* and *sticks*. They attacked them. Nishan Singh @ Buta fired shot from his pistol with intention to kill Shankar, which hit on the left side of his chest and thus he fell down. Jagdish @ Raju fired a gun shot on him (complainant) with intention to kill, which hit on my right leg and I also fell down. Gurjant Singh @ Janti and Bohar Singh standing near the house of Balkar Singh also fired gun shots. Thereafter 7-8 persons armed with *dangs* and *sticks* entered their house. They damaged the house of Sukhdev Singh, Bagga Singh and Prem Singh and also inflicted injuries to Rajinder Singh, Massa Singh and Bitu. The residents made hue and cry and on listening the same, the accused ran away. His brother Surjit Singh arranged the vehicle and got them admitted in Civil Hospital Ferozepur. The request was made to take the legal action against the accused. On registration of the FIR, the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge-I, Ferozepur praying for the grant of anticipatory bail. However after hearing both the sides, finding no merit in the same, the learned Additional Sessions Judge-I, Ferozepur dismissed the petition filed by the petitioner vide his order dated 14.01.2025. Hence being aggrieved, the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.



3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that the present case is a case of version and cross version. He has submitted that Kartar Singh had suffered gun shot injury and thus DDR No.33, dated 23.11.2024 has been registered. He has submitted that the petitioner has been named in the FIR on the allegation that he owed Rs.5 Lacs but no overt act has been attributed to him. He has submitted that no specific role has been attributed to the petitioner. He has submitted that no prima facie case as alleged against the petitioner is made out and thus, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. D.A.G., Punjab appears and accepts notice on behalf of the respondent-State. He has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner has played an active role and his name was specifically mentioned in the FIR. He has submitted that the allegations against the petitioner are serious in nature. He has submitted that the case is at the initial stage. He has thus submitted that the petitioner does not deserve the concession of bail and hence the present petition deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is deciphered that there are specific allegations in the FIR made by the complainant that the relative of complainant Gurdeep Singh had to



take an amount of Rs.5 lacs from Balkar Singh, i.e. the petitioner. However on one pretext or the other, the petitioner was avoiding to pay the same. The Panchayats were also allegedly convened for the same, however the petitioner abused Palo Bai, wife of Gurdeep Singh. Thereafter the petitioner brought the co-accused, who were duly armed with dangs and sticks. Co-accused brought by the petitioner caused fire arm injuries to the complainant side and there are fire arm injuries suffered by the complainant side. Thus the petitioner has allegedly played an active role in the commission of offence. The investigation is at the initial stage.

8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) BNSS which reads as under:-

“Direction for grant of bail to person apprehending arrest:

- 1. When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*
- 2. When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
 - (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
 - (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the*



facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section."

9. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632***, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would always prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting*



anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."

10. The Hon'ble Supreme Court in ***State Vs. Anil Sharma***, (1997) 7SCC 187, held as under:-

“6. *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 favorable 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 materials 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 need 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.”

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. Needless to say, the investigation is at the initial stage and in the facts and circumstances, custodial interrogation of the petitioner would be essential and granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

30.04.2025

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

(RAJESH BHARDWAJ)
JUDGE