



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19908-2025
DECIDED ON: 09.04.2025

AKASH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Priyavrat Parashar, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 of the Bhartiya Nagrik Suraksha Sanhita 2023 for grant of Anticipatory Bail to the Petitioner in FIR No.38 dated 05.03.2025 (Annexure P-1) under Section 115(2), 118, 126(2), 191(3), 190, 109 of the Bhartiya Nyaya Sanita, 2023 registered at Police Station Matour, SAS Nagar Mohali, Punjab.

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

Statement of Alok Kumar S/o Anil Kumar R/o House No. 180, Ekta Colony, Balongi, Near Palki Palace, District SAS Nagar Aged about 17 years Mobile No.7837808000. Stated that I am a resident of the abovesaid address and currently I am studying in Class +1 in Sarvhitkari School Sector-71. On 04.03.25 at around 5:30 PM I went to Barmajra to meet my friend Rohit and from where we went to the adda of my friend Rohit at Sector-52, Chandigarh, where my friend is

having momos business. My friend put the workers on the job and at around 6:15 PM and we came back from there and I asked my friend to leave me to my house at Balongi and then go to your house. When we reached to Phase-3A Mohali via road adjoining with Khalsa College then I was driving the motorcycle and my friend was sitting behind, when we near Phase-3 Mohali petrol pump then suddenly three motorcyclists were coming ahead of us and a boy on a motorcycle came down on the road in front of us and suddenly before our eyes, he hit me with a kirpan which directly hit on my forehead due to which our motorcycle got out of control and we fell on the road. The name of the boy who attacked me is Anku whose lives in Phase-02 Mohali Society and there were 12-14 other boys also with him who were also giving blows at me while I was lying on the ground. Upon which, I got up with force and started running towards the petrol pump. The said boys were also after me and attacking me, upon which they also gave a kirpan (sword) blow on my right arm and also gave a kirch blow on my back, then I ran to the petrol pump and wanted to save my life by entering the cabin, but suddenly I fell unconscious and fell outside cabin. Then, the people working in the petrol pump saved me and asked me about my family members, then I gave my father's number, who reached at the spot immediately and got me admitted to the Phase-6, Mohali, where I am under treatment. The boys who attacked me by surrounding me with Kirpans/Kirches, their names are Anku and Sagar both of them are brothers and Sajjo alias Titu resident of Village Barmajra and 8/10 were unknown persons were also with them. The cause of animosity is that when I used to go to Phase-02 Mohali for tuition, the said boys used to hang around there and often asked me to provide them the ID of some girl or the other. I was also asked for the ID of a girl's of Instagram, due to which we first had a fight. But I did not take any action because my father refused to do so and withdrawn me from tuition. Yesterday the said persons/boys attacked me with Kirpan and kirches and

broke down my phone. I can also recognize rest of the boys whenever they are brought before me. Therefore, legal action should be taken against the said boys. I have recorded my statement to you, which is heard and it is correct. Sd/- Alok 05/03/25" Confirmation of Statement Sd/- Anil Kumar."

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as no specific injury or role has been attributed to him. She further contends that co-accused namely Sagar has already been granted the concession of anticipatory bail by the trial Court vide orders dated 20.03.2025 (Annexure P-2) and 28.03.2025 (Annexure P-3). It has been further contended that the petitioner is a man of clean antecedents as he is not involved in any other case. It has been submitted that the petitioner is ready and willing to join the investigation and cooperate with the investigating officer concerned.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Jastej Singh, DAG, Punjab accepts notice on behalf of the respondent-State and opposes the grant of anticipatory bail to the petitioner on the ground that the petitioner along with other co-accused persons had attacked the complainant and caused injuries to him.

4. **Analysis**

From the perusal of the FIR it can be culled out that the petitioner along with other co-accused has brutally attacked the complainant and specific allegations are there against the present petitioner that he gave a

sword blow on the forehead of the complainant, as can be seen from the CCTV footage. Therefore, when prima facie serious allegations are levelled against the petitioner that he along with his co-accused persons has tried to kill the petitioner in a broad day light, this Court does not deem it appropriate to grant the concession of anticipatory bail to the petitioner.

The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand.

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, 2023., 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.”

5. **Relief**

In view of the seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the instant petition, hence, the same is hereby 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

09.04.2025

Poonam Negi

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