



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

101

CRM-M-19239-2025

Date of decision: 1st May, 2025

Swaru

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manoj Kumar Sharma, Advocate for the petitioner.
Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

Prayer in this petition has been made by the petitioner seeking benefit of anticipatory bail in case bearing FIR No. 081, dated 11.06.2024 registered under Sections 452, 324, 323, 506, 120-B, 148 and 149 of IPC (Sections 326, 307, 201 and 450 of IPC added later on) at Police Station Dinanagar, District Gurdaspur, which has been registered on the basis of statement recorded by the complainant Talib Hussain, alleging that on 07.06.2024, the petitioner along with the co-accused had formed membership of an unlawful assembly and in prosecution of common object of that unlawful assembly, had criminally trespassed into his house, had opened an assault upon him and had caused him injuries. Some of the co-accused have been arrested. Apprehending his arrest, the petitioner had moved an application for grant of pre-arrest bail before the learned Additional Sessions Judge, Gurdaspur, which was dismissed vide order dated 01.04.2025.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Only a simple injury has been attributed to



him. He is ready to join the investigation. His custodial interrogation is not required. It is, therefore, urged that he deserves to be given benefit of pre-arrest bail.

3. Notice of motion.

4. Learned Assistant Advocate General, Punjab, has advance notice of the petition and is ready to argue the matter. It is submitted that proclamation proceedings under Section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') have been initiated against the petitioner and proclamation is ordered to be issued against him for 29.05.2025. It is argued that initiation of such proceedings has made the petitioner dis-entitled to seek benefit of pre-arrest bail and therefore, it is argued that the petition is not maintainable and is liable to be dismissed. To fortify his arguments, learned Assistant Advocate General, Punjab, has relied upon authorities cited as '*Shrikant Upadhyay and others vs. State of Bihar and another, AIR 2024 SC 1600*', '*Prem Shankar Prasad vs. State of Bihar and another, (2022) 14 SCC 516*', '*Lavesh Vs. State (NCT of Delhi), (2012) 8 SCC 730* and '*Sumitha Pradeep Vs. Arun Kumar C.K. and another, 2022 (4) RCR (Criminal) 977.*'

5. The fact that the proclamation proceedings have been initiated against the petitioner has not been disputed by learned counsel for the petitioner. As such, firstly, it is to be seen, as to whether, the petition is maintainable or not? Learned counsel for the petitioner has submitted that since he has not been declared a proclaimed person so far, therefore, the initiation of proclamation proceedings does not come in the way of this petition. However, in view of the ratio of law as laid down in the above cited authorities, in the opinion of this Court, this argument cannot be accepted. In



Shrikant Upadhyay's case (supra), it was observed that filing of an application for grant of pre-arrest bail by an accused after coming to know about initiation of proceedings under Section 82 of Cr.P.C. did not make him entitle to seek benefit of pre-arrest bail. In *Prem Shankar's case (supra)*, the petitioner was absconding, proceedings under Section 82 were initiated against him. The Hon'ble Supreme Court took note of the fact that he was concealing himself to avoid execution of warrants of arrest and rejected his plea for grant of pre-arrest bail. In *Lavesh's case (supra)*, it was observed that a person against whom warrants have been issued and is absconding or concealing himself in order to avoid execution of warrants is not entitled to relief of anticipatory bail.

6. In the instant case, the petitioner has filed this petition after initiation of proceedings under Section 84 of the BNSS. The fact that he has not been declared a proclaimed person so far, cannot be considered to be a ground to extend benefit of pre-arrest bail to him in view the of the above discussed position of law. There are specific allegations against him, thorough and proper investigation is required to be conducted in the matter. The custodial interrogation of the petitioner is must for that purpose. Taking all these facts into consideration, this Court is inclined to hold that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

1st May, 2025

Parveen Sharma

1. Whether speaking/ reasoned
2. Whether reportable

: Yes / No
: Yes / No