



CRM-M-21305-2025(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRM-M-21305-2025(O&M)

Decided on: 15.05.2025

Lakhan

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Vineet Chaudhary, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Abhishek Goyal, Advocate for respondent No.2.

KIRTI SINGH, J. (Oral)

Apprehending arrest the petitioner has filed this petition under Section 482 of BNSS for grant of anticipatory bail in case bearing FIR No.89 dated 22.02.2025 under Sections 191(2), 191(3), 115(2), 118(1), 351(2), 75, 109 and 238 of BNS, registered at Police Station Mujesar, District Faridabad.

2. The contents of the aforesaid FIR reads as under:-

“To, the SHO, Gauchhi, Police Chowki, Sector 23. It is requested that I, Oxxx live in Sarurpur. I alone woman have been attacked. My breast was touched through the hands. My clothes were torn. The aforesaid were three boys whose names are Yogesh, Sachin and Lakhan. These people behaved in a very bad manner with me. I have beaten with slaps and fist blows and Pappu has threatened to shoot me and I have been abused badly. Kindly justice be provided to me. These three boys and two persons namely Pappu and Mahavir have threatened to shoot me by giving abusive language. Dated 21.2.2024, Omvati wife of Mahesh, Village Sarurpur.”

3. Learned counsel for the petitioner, inter alia, submits that the



petitioner has been falsely implicated in the present FIR. In actuality, pursuant to the registration of the present FIR lodged by the uncle and the father of the petitioner, regarding death of his uncle's son under mysterious circumstances, the family members of the complainant along with others attacked the petitioner and his family members on 21.02.2025. An FIR qua the same was also lodged by the petitioner on 02.03.2025. It is submitted that the petitioner had no role to play in the present FIR and nothing is to be recovered from him.

4. *Per contra*, learned State counsel has opposed the prayer made in the petition. He while relying upon the contents of the reply dated 07.05.2025 submits that the petitioner is named in the instant FIR, and a specific role has been attributed to him that he caused injuries by wooden stick (danda) to injured Hemant, who is the son of the complainant, and to one Raj. Besides, one injury was found on the person of complainant and two were found on the person of Mukesh. The Discharge summary, MLR and NCCT Head of injured Sumit were obtained and as per the opinion of doctor, one of the injuries on the person of Sumit was found dangerous to life. 3 out of the a total of 9 accused, i.e. Hemant, Sachin and Mahavir have already been arrested. Recovery of the weapon of offence used by the petitioner is yet to be effected, and thus to facilitate fair and uninterrupted investigation and to prevent the petitioner from absconding, custodial interrogation of the petitioner might be required. Therefore, in view of the serious allegations leveled against the petitioner, he is not entitled for grant anticipatory bail.

5. Heard the rivals submissions made by learned counsel for the parties and have perused the relevant records.



6. In *Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)*, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679*).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”*



7. In *Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731*, the Constitution Bench reaffirmed that while considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. The general rule, put tersely, may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused fleeing, intimidating witnesses or tampering with the evidence, inter alia, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.

9. *Prima facie*, there are serious allegations leveled against petitioner and a specific role qua the alleged occurrence has been attributed to him. The complainant side has sustained injuries, as can be seen from the MLRs, wherein one injury suffered by Sumit has been declared as dangerous to life. The recovery of weapon purported to have been used by the petitioner is yet to be effected. Therefore, this Court is not inclined to grant the discretionary relief of anticipatory bail to the petitioner in the present case, wherein custodial interrogation of the petitioner might be required to unearth the true dimension of the alleged occurrence.

10. Accordingly, the present petition stands dismissed.

11. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

15.05.2025

Kapil

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No