



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27802-2025
DECIDED ON: 20.05.2025

KEWAL SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.K. Khunger, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 of BNSS for grant of anticipatory bail to the petitioner in case FIR bearing No. 0158, Dated 21.11.2024, Under Section 333, 115 (2), 351 (2), 191 (3), 190 BNS, registered at Police Station Kotbhai, District Sri Muktsar Sahib.

2. Facts

Prosecution story setup in the present case, as per the version in the FIR, reads as under:-

"Statement of Kaku Singh son of Gurdev Singh son of Jang Singh, resident of Village Giljewala, District Sri Muktsar Sahib aged about 40 years, Phone No. 79731-16594. Stated that I am resident of the above mentioned address and doing the work of labour. On 20.11.2024, I along with my brother Gurmeet Singh son of Gurdev Singh, resident of Giljewala had been taking meals in his house, then Gurwinder Singh alias Gori son of Jagsir Singh, resident of

Giljewala, who came to the house of my brother Pinderpal Singh son of Sukha Singh, resident of Giljewala, then the girl was all alone in the house, then I after coming said to Gurwinder Singh alias Gori to go away from the house, then you may come in the morning, now the girl is alone in the house, that I after turning him out from the house of Pinderpal Singh, I came to my house, then the lights were on in the courtyard of the house. Then it would be at about 7:00 PM, as when in my house Gurwinder Singh alias Gori son of Jagsir Singh, who was having handle of spade in his hand, Raja Singh son of Gela Singh was having handle of spade in hand, Vakeel Singh son of Raja Singh was having handle of spade in hand, Hammu Singh son of Raja Singh was having handle of spade in hand and Kewal Singh son of Hansa Singh was having handle of spade in hand, residents of Village Giljewala came and just instantly after coming, Kewal Singh raised lalkara that catch him, then in the meanwhile Vakeel Singh and Hammu Singh caught hold of my arms, then Gurwinder Singh alias Gori gave blow with his spade to me, which hit on the backside of my head, then my brother Gurmeet Singh came forward in order to rescue me, then Raja Singh caught hold of my brother Gurmeet Singh. Then Kewal Singh gave blow with his handle of spade to me, which hit on the shoulder of my right arm. Then I raised the raula of marta marta, then all these persons while extending threats of criminal intimidation to me along with their respective weapons fled away from the spot. Thereafter on account of injuries sustained to me, my brother Gurmeet Singh after making arrangement of a conveyance got me admitted for treatment at Civil Hospital Doda, where my treatment has been going on. The motive behind the grudge is that Gurwinder Singh alias Gori who had come to the house of Pinderpal Singh and I had sent him from the house of Pinderpal Singh. Only due to this reason, all of them after having been connived with each other have inflicted injuries to me. Appropriate legal action may be taken against them. The statement has been got recorded before you, heard, the same is correct. LTI Kaku Singh above in the presence of LTI Gurmeet Singh son of Gurdev Singh, resident of Village Giljewala.”

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 he was not even present at the place of alleged occurrence. As per the allegations in the FIR, the petitioner gave a blow with handle of spade which hit on the shoulder of the right arm (non-vital part of the body) of the complainant and the injury attributed to the petitioner is simple in nature.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Jastej Singh, Addl. AG, Punjab accepts notice on behalf of the respondent-State, who opposes the grant of anticipatory bail to the petitioner on the ground that in case the prayer made in the present petition is accepted then there is every possibility that they will indulge in the illegal activities again, as after the registration of present case a dispute arose again wherein, one of the accused namely Gurwinder Singh has been murdered.

4. **Analysis**

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The Court has extraordinary power to protect an innocent person. However, this power has to be exercised by the Courts with due circumspection.

Adverting to the peculiar facts and circumstances of the present case, it is manifest that subsequent to the registration of the FIR, one of the co-accused, namely Gurwinder Singh, has been murdered under

circumstances that raise grave concerns about the safety of witnesses and the sanctity of the ongoing investigation. This Court cannot overlook the timing and implications of such a development, which strongly suggests a deliberate attempt to derail the process of law. The alleged involvement or influence of the petitioner in this context cannot be ruled out at this stage. Such an occurrence, by its very nature, constitutes a serious apprehension that if the petitioner is granted the benefit of anticipatory bail, he may tamper with crucial evidence, intimidate witnesses, or indulge in further acts prejudicial to the fair investigation and administration of justice. Therefore, solely on this ground, the petition is liable to be dismissed, as the grant of anticipatory bail in such a sensitive and grave matter would not be in the interest of justice.

The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail because an element of cheating is involved in it. 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 438 Cr.P.C. (Section 482 BNSS, 2023 now), 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. Conclusion

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 petitions, hence, the same are hereby dismissed.

20.05.2025

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**(SANDEEP MOUDGIL)
JUDGE**

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