



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

110

**CRM-M-32042-2025(O&M)
Decided on: 10.06.2025**

PAWAN

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Prateek Pandit, Advocate
for the petitioner(s).

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.78 dated 12.04.2025 under Sections 127(1), 115(2), 118(1), 118(2), 191(3), 190 and 351(2) of BNS, registered at Police Station Sadar Kapurthala, District Kapurthala.

2. Learned counsel for the petitioner submits, *inter alia*, that the petitioner has been falsely implicated in the present case due to previous enmity between the parties. It is contended that there is an unexplained delay of six days in the registration of the FIR. Even the allegations levelled against the petitioner are exaggerated, and that no such offence has been committed by him. Learned counsel submits that petitioner is willing to join and co-operate.

3. Upon advance notice, Mr. Adhiraj Singh, Asst. A.G. Punjab accepts notice on behalf of respondent-State and has opposed the submissions made by learned counsel for the petitioner. He upon instructions submits that there are serious allegations levelled against the petitioner that he gave sword blows upon the person of the complainant. As per the MLR of the complainant-Vicky, 2 of the injuries i.e. one on the



frontal region of the skull and the second on the hand, have been declared as grievous in nature, both of which are attributable to the petitioner. Even the recovery of the weapons used in the offence is yet to be effected. Therefore, the petitioner does not deserve the concession of anticipatory bail.

4. Heard the rival submissions made by both the parties.
5. 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.”*



6. In *Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731*, the Constitution Bench reaffirmed that when 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.
7. 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.
8. *Prima facie*, there are serious allegations against the petitioner of attacking and injuring the complainant with a sword. The bail application filed by the petitioner before the learned Additional Sessions Judge, Kapurthala was also dismissed by observing that as per his MLR, the complainant had suffered a total of 10 injuries, two of which, attributable to the petitioner, were declared grievous in nature. 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.
9. In the light of the foregoing discussion, the instant petition stands dismissed.
10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

10.06.2025

Kavita

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