

2025:PHHC:076187



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

**CRM-M-32557-2025
DECIDED ON: 16.06.2025**

XXXX**.....PETITIONER****VERSUS****U.T CHANDIGARH****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Ravi Malhotra, Advocate for the petitioner.
Mr. Manish Bansal, PP. UT. Chandigarh

SANDEEP MOUDGIL, J (ORAL)**1. Prayer**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.134, Dated: 26.12.2024, Under Sections:109, 3 (5), 115 of BNS registered at Police Station sector 26, Chandigarh.

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

“Statement of Tarun, Son of Late Rakesh Kumar, Resident of House No. 3228, Sector 38 D, Chandigarh, Age 20 Years, Mobile No. 9988511138, has stated that "I reside at the aforementioned address along with my family and I am employed in a private job. Yesterday, on the date 25.12.2024, my maternal uncle's son, Raj, son of Sanjay, resident of House No. 6607, Shimlapuri, Ludhiana, Punjab, age 19 years, had come to Chandigarh for a visit on account of Christmas Day, I took my maternal uncle's son along with me to attend a party at a club in Sector 26, Chandigarh. At approximately 12:05 AM, I was standing with my maternal uncle's son in front of the public toilet

adjacent to The Great Bear, Sector 26, and we were engaged in conversation. At that moment, four to five boys came running toward us from the direction of Madhya Marg Road, all of whom were carrying sharp-edged knife-like weapons in their hands. Out of them, I identified three individuals by name: 1. Samir, 2. Makhan, 3. Kala. Immediately upon arrival, Samir, Makhan, Kala, and the other unknown individuals assaulted me and began shouting, "Do not let him live today; we will kill him today." Makhan held both of my hands, Samir gave injuries in the abdomen and Kala stabbed me in the back with a knife-like weapon. Another unknown person, who was holding a helmet in his hand, struck my maternal uncle's son Raj, on the face, with the helmet and thrown down to the ground, and beaten with kicks and fists, due to injury with sharp edged weapon, I, received a large wound on my stomach and blood started to flow, and I started screaming in pain and fell to the ground. On seeing me scream, a few people standing at a distance ran towards me, and seeing people coming towards me, Samir, Kala, Makhan, and other unknown persons ran away from the spot with the sharp weapon. Some unknown person took me and my maternal uncle's son Raj to GMSH Sector 16 Chandigarh, where the doctor referred me to PGI Sector 12 Chandigarh. I am under treatment at PGI Sector 12 Chandigarh and due to being wounded in the stomach with a sharp weapon, I am in a lot of pain. Samir, Kala, Makhan, and other unknown persons injured me with the intention of killing me using a sharp weapon. I can also identify the other unknown persons if they come in front of me. Legal action should be taken against Samir, Kala, Makhan, and others. Sd/- Tarun Attested: Ashwani Kumar, SI 1462/CHG, PS-26 Chandigarh."

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is further submitted that the injury allegedly attributed to the petitioner has been declared grievous in nature.

However, counsel alleges that the petitioner is a minor, aged only 17 years, at the time the offence was allegedly committed.

Counsel urges the Court to consider the petitioner's young age and his status as a student, which weigh heavily against the grant of any harsh punitive measures at this stage. Additionally, learned counsel undertakes on behalf of the petitioner that he is fully prepared to cooperate with the investigation and is willing to join the same as and when directed by the investigating agency.

Notice of motion.

On behalf of respondent/State

On the asking of Court, Mr. Manish Bansal, PP. UT. Chandigarh accepts notice on behalf of the respondent-State. He opposes the prayer made in the present petition stating that there is specific alleged against the petitioner that he inflicted stab injuries to the chest and abdomen of the complainant.

Furthermore, he submits that the petitioner was earlier granted interim bail by the trial Court vide order dated 29.04.2025; however, on account of non-cooperation during the course of the inquiry the interim relief granted to him stands vacated by the trial Court vide its order 06.05.2025. Hence, keeping in view the conduct, injuries attributed to the present petitioner and to recover the weapon used in commissioning of offence, the custodial interrogation of the petitioner is necessary

4. Analysis

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable

grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

On a perusal of the FIR, it is evident that the petitioner has been implicated in the commission of an offence punishable under Section 109 of the BNS Act and is identified as the principal offender responsible for inflicting injuries upon the complainant. Moreover, the conduct of the petitioner is not appreciable, as he has not extended cooperation with the ongoing investigation despite having been afforded adequate opportunity to do so.

Considering that the release of the petitioner on bail may likely facilitate his association with known criminals and impede the progress of the investigation, as well as his role as the main accused and his lack of cooperation with the enquiry, this Court is of the considered view that there are substantial grounds to decline the relief of granting anticipatory bail to the petitioner.

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 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.”

In view of the gravity of the allegations and the nature of the injury caused, this Court is of the considered opinion that the case does not warrant the exercise of its inherent jurisdiction under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for granting the extraordinary relief of anticipatory bail to the petitioner. Granting such relief at this stage may not only halt the proper investigation of a serious offence but may also send a wrong signal in matters involving violence of this magnitude.

In the light of above is discussions made herein-above, this Court does not find any merits in the present petition. Hence, the same is dismissed.

However, it is made clear that the observations made 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

16.06.2025

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